CAMPAIGN FINANCE REFORM LEGISLATION

104

Y 4.H 81/3:C 15/7

Campaign Finance Reform Legislation...

HEARING

BEFORE THE

COMMITTEE ON HOUSE OVERSIGHT HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTH CONGRESS

FIRST SESSION

NOVEMBER 2, 1995 AND NOVEMBER 16, 1995, WASHINGTON, DC

MAY 29 1996

Printed for the use of the Committee on House Oversight

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TESTIMONY ON CAMPAIGN FINANCE REFORM LEGISLATION

THURSDAY, NOVEMBER 2, 1995

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOUSE OVERSIGHT,
Washington, DC.

The Committee met, pursuant to call, at 10:00 a.m., in Room 1310, Longworth House Office Building, Hon. William M. Thomas [chairman of the committee] presiding.

Present: Representatives Thomas, Ehlers, Dunn, Diaz-Balart, Fazio, Hoyer, Jefferson, and Pastor.

Staff Present: Stacy Carlson, Staff Director; Roman Buhler, Counsel; Jim Sivesind, Counsel; Chris Wright, Professional Staff; Samantha Kemp, Professional Staff; Janet Giuliani, Staff Assistant; Laura Buhl, Staff Assistant.

The CHAIRMAN. Our House Oversight Committee will be in order.

It is a pleasure to welcome the Members and the Speaker to the first in a series of hearings on campaign finance reform issues. I think in the past folks have tended to look at campaign finance reform as a partisan issue. We need to at the outset indicate to everyone that, at least as far as the Chairman is concerned, campaign finance reform is not a partisan issue. It is a political issue to be sure, and I will use that often used definition of politics: the process of determining who gets what, when, and how. If, in fact, it is a political issue, then it is an extremely important issue because it deals with the rules and the financing of people selecting democratically their elected Representatives to their republic, and, therefore, it is everybody's business.

We are going to hold a series of hearings. They are going to be open. They are going to be public. Today, after the Speaker and the Minority Leader, we are going to begin focusing on Members who have introduced bills and the first subject matter will be the role of political action committees.

After that, we will look at expenditures made by candidates out of their personal funds, independent expenditures, political parties and changing the role of political parties under the campaign finance laws, and a whole host of other subjects focusing on the question of what laws we currently have on the books in the area of campaign financing, and how do we propose to change it.

Our examination won't be confined, obviously, to elected Members. It will be practitioners in the political arena. There will be public interest groups. There will be the general public. We will hold hearings until all of those groups who have an interest in the subject matter have been heard.

Let me, for just a minute, try to set a general tone and direction. Focus if you will to the charts over on the right. All of you have charts available to you in written form. I think it is useful to review where we have come from historically, and where we are now, especially since most of the reform that currently affects us was written over about a five to seven year period in the 1970s, or about 25 years ago.

It started with the Federal Election Campaign Act of 1971, and the primary thought for us there was disclosure. It required candidates to disclose where they got their finances under particular rules of disclosure. Interestingly, it also limited the amount that candidates could spend on media advertising. That was repealed by 1974 amendments. The 1971 Act put a limit on how much individual candidates could spend of their own personal money. That was invalidated. And so we will focus, then, on the Federal Election Campaign Act amendments of 1974, which today form the current basis of our campaign finance laws.

Contribution limits were focused significantly in terms of the amount available for individuals to contribute, not just to candidates but to political parties and to political action committees. Political action committee contribution amounts were determined. Cash limits were also adopted.

Spending limits passed by Congress in 1974, which were imposed on House candidates, were invalidated under the *Buckley* v. *Valeo* decision in 1976. Independent expenditures, limited by congressional action, were also invalidated under the Supreme Court decision of *Buckley* v. *Valeo* in 1976. Congress also in 1974 established the Federal Election Commission, albeit the members of the commission selected by Congress.

Those 1974 amendments were adjusted by the 1976 *Buckley* v. *Valeo* decision, the key Supreme Court decision in the area of campaign finance reform. Incidentally, when you look at the decision, I think one of the most striking things about the decision is that there were only eight Justices who rendered a decision. Justice Stevens had come on the Court too late to participate in the decision. But at that time, Chief Justice Warren Burger concurred in part and dissented in part. Justice White concurred in part and dissented in part. Justice Marshall concurred in part and dissented in part. Justice Blackmun concurred in part and dissented in part. Justice Rehnquist concurred in part and dissented in part. In fact, Justice Rehnquist is the only sitting member of the Court, sitting as Chief Justice today, who participated in the *Buckley* decision.

But what the *Buckley* decision did was, first of all, uphold the contribution limits. In the words of the Court, the primary governmental interest served by the act is the preservation of actual and apparent corruption of the political process. But the Court decision overturned spending limits, both in terms of individuals and in terms of the limits that were imposed on candidates. The Court said that it was unduly burdensome on political expression with no overriding government interest. It also indicated that the Federal Election Commission could not be composed of members selected by Congress since it dealt with overseeing Congress.

That was changed in 1976, reconstituting the Federal Election Commission with members selected solely by the President and

then basically enhanced disclosure and minor fine-tuning, both in the 1976 amendments and in the 1979 amendments, and that leads to the current structure that we are functioning under today.

So you can see that. Just very briefly, in a review, disclosure is the cornerstone of the system. And we just recently, by unanimous vote, passed out an additional fine-tuning of disclosure, H.R. 2527, removing House incumbents and candidates of filing with the Clerk of the House and filing instead directly with the Federal Election Commission, thereby reducing the delay in public disclosure by one to three days.

Contribution limits, as they have been defined over the 1970s are there, and you can see them in terms of individuals, and in terms of PACs.

Candidate personal spending has no limits because of the *Buckley* v. *Valeo* decision. Independent expenditures have no limits. They were invalidated in *Buckley* v. *Valeo.* We do not have a detailed examination of political parties on the chart because that is a subject for separate hearings, and I want to trace the history of political parties and what has occurred to them in terms of congressional legislation, modified by Supreme Court decisions, because I believe it has a significant impact on the direction that we have taken in the last 25 years.

At this time, I would recognize the gentleman from California, the Ranking Member.

Mr. FAZIO. Well, thank you, Mr. Chairman. And I first want to congratulate you on initiating this series of hearings. Your interest in this subject area and your knowledge about it are well-known and well-respected.

I look forward to trying to put together the kind of product you indicated that you wanted to make the hallmark of this committee. Since this is a leadership Committee, I think it will be also important that our leaderships be willing to work together, if we are going to report out anything that could resemble a bipartisan or consensus approach to campaign finance reform.

I want to welcome the Speaker and later on our leader, Dick Gephardt, will join us as well. I think we value your marquee contribution to this effort today. I think it does bring attention to the fact that we are, once again, about to delve into one of the most controversial and difficult areas that we legislate in. We have 435 plus experts on the subject, all of whom have run successful for office, at least once.

The need for campaign reform is increasingly obvious, with every passing election. The cost of communicating with our constituents, the citizens who elect us, is growing enormously. All of us struggle with the amount of time which we are required to devote to fundraising alone. It probably is the greatest cost to our modern campaign ritual. But let me say that I think the biggest problem we face is the developing, perhaps it is already here, total crisis and confidence that has developed over not only the electoral process but also over the process of governing which flows right out of it. We have far too little trust of the public at the moment, and I think our efforts here today are on the part of all of us designed to see if we can do something to recover that.

But despite the general consensus that reforms are needed, the task of coming up with something that suffices is enormously difficult. Americans react to the way of financing campaigns in many different ways, but I think two are the most obvious and at the same time contradictory. On the one hand, people believe that campaign money buys elections that, in effect, public officials are bought in the electoral process. We hear a lot of rhetoric about special interests and PACs and fat cats and all the rest. At the same time, in most election years, 20 million Americans choose willingly to contribute to campaigns. They do so in many cases with strong feelings of virtue, because they, as groups and individuals, think that the money they contribute really does go to the furtherance, not only of what is in their interest but their ideals and their goals for the country. So at the same time that we bash politicians and dump on the system of electing them, we find many, many people willingly participating in them.

So it is not clear today that this issue, which has grown increasingly difficult to deal with, can be resolved in terms of ways that really improve the system. We are all much better at describing the problem than coming up with a consensus, an alternative to the current system.

So let me state from the outset that despite the very negative coverage that the media gives our system, and it is almost unanimously critical from differing perspectives on occasion, this is, as the Chairman has already said, the most discloseable, most accountable system of any government at anytime in history.

Our constituents have available to them our official personal finances, our office accounts, our campaign finances. There is nothing about us or the political system we participate in that isn't available. And despite the claims of some so-called reformers, this body has not failed to take up the issue of campaign reform. In fact, as the Chairman has indicated, we are still operating with a much amended by the Court law that is 20 years old but we have attempted on many occasions to delve into this area. Three, as a matter of fact, times in the last Congresses we have passed reform bills. They haven't become law. I am sure they were imperfect in many ways and I know there were partisan differences over them. But they were the product of tremendous effort, some attempts to reach consensus and they were all, I think, a step in the right direction, even if they did not accomplish their ultimate purpose, a truly bipartisan breakthrough.

So, Mr. Chairman, I think this series of hearings is the way we really ought to once again review the bidding on how to go about financing and conducting Federal elections. Hopefully, it will provide a real foundation for all of us to build the kind of legislation that I think would once again help restore some confidence in our representational form of government.

Mr. Chairman, there are a lot of things that need to be said about the subject of today's hearing, PACs and related issues. I hope we will have a chance, in dialoguing with our colleagues, to make some of those points. I think it is fair to say that many of the ideas that we will hear today have been around the track before. This is not an area where there has been a lot of new and creative thinking. Perhaps it is too much to ask of the mere mor-

tals on this committee but perhaps we can break through and fully understand the implications of not only what we have done in the past but some of the panaceas we will have offered today about fixing the present.

I hope people will think big thoughts and come up with some new concepts, because in the past, we have been victimized by Murphy's Law more often than not. In fact, all of the efforts to bring about the disclosure, the accountability that the PAC system personifies were done in the name of reform. This was a way of bringing middle management, white collar workers into the political process, equivalent to what the organized labor movement had brought about.

When former Representative Clark MacGregor, Republican of Minnesota, led the charge to bring PACs into being, it was all about getting away from the Watergate problems of the 1970s, the under the table, the soft money and all of the large contributions that appalled the public. So when we look to fixing the problem, let's remember, we fixed it so many times before that we now have an even bigger one. Let's begin also by assuming that if we don't fully fund the FEC, whatever we put in place will not be adequately monitored and enforced.

So, Mr. Chairman, we bite off a lot today, but I think it is time, and I think this committee has the capability to put together a product that might make us all proud.

Thank you.

The CHAIRMAN. Thank you.

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UNITED STATES
HOUSE OF REPRESENTATIVES

COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEES:
TRADE
HUMAN RESOURCES

HOUSE OVERSIGHT
COMMITTEE

STATEMENT OF HON. JENNIFER DUNN

MEETING OF THE HOUSE OVERSIGHT COMMITTEE
NOVEMBER 2, 1995

Mr. Chairman, I'd like to thank you for scheduling this hearing today, and for your willingness to schedule a series of hearings on the issue of campaign finance reform. It is good to see the Speaker here, the Minority Leader, and so many of our colleagues who have a profound interest in this issue. I welcome the opportunity to hear their reform ideas, to learn from their experiences as candidates, to explore creative ways to increase the level of local, individual participation in campaigns.

I notice from today's list of witnesses how many of our colleagues have introduced legislation affecting campaign finance law. I myself have altered a reform proposal I drafted in the last Congress and intend to introduce within the week. Clearly, changes to campaign finance law affect Members of the House in a very direct way. The legislation passed in the last Congress, but defeated when it reached the other body, was a bill to protect incumbents. Given our new majority's interest in reform, it is critical that the House Oversight Committee provide a full airing of this issue, so that we may hear from Members, outside organizations, from taxpayers, and the political grassroots.

Anyone who doesn't recognize the message sent by voters at election time -- that the American public is fed up with business is usual -- is either in serious denial or living in a dream world. We have been asked by the American people to address those concerns. We will and we are. Today's hearing -- the first of several -- is proof of that. I believe this issue boils down to one thing: the American people do not believe that democracy is working for them. They believe the field is not even -- that it is tilted toward the incumbent's goaline. They think that there are certain influences that carry more weight with candidates than others -- and that the influence of the individual citizen pales in comparison to the well-organized and the well-funded. I credit Americans for their wisdom and insight and quite frankly, I couldn't agree with them more.

That is why the bill I will introduce raises the level of importance given to individual voters because it reduces the amount that may be contributed by multicandidate committees by 80%. The message to PACs will be that their concerns are no more important than the concerns of an individual voter living in Bellevue, Washington, or Bakersfield, California But I do not believe that the concerns of organized groups are any less important and should, or could, be banned, under our Constitution. To say that the aggregate views of Americans who each make a small donation to the Sierra Club, to the National Federation of Independent

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Again, I want to thank you, Mr. Chairman, for the opportunity to make a statement on campaign finance reform. I look forward to hearing the views of our colleagues, starting with our distinguished Speaker of the House.

Business, to the American Association of Retired Persons, or to whatever organization that represents their views are somehow less important than anyone else's views is wrong. So I support that type of participation, but not to the disadvantage of individual participation.

Further, my proposal will actually encourage individuals to get more involved in America's public affairs. My bill includes a provision that allows individuals to claim a tax credit equal to the amount of their contribution up to a limit of $100. The contribution is eligible for the tax credit if it is given to a candidate for local, state, or federal office, to organizations that function exclusively to influence the nomination or election of a candidate for public office, or to a local, state, or national political party. This provision is more than rhetoric. It provides a real incentive to get involved, to contribute to a cause, and to work toward the election of a candidate you believe can make a difference in your community or state. This is positive change which offers a concrete benefit to all Americans.

There is another aspect of fundraising that is unique to incumbents and, while widespread, may leave a bad impression with voters. I am referring to the practice of holding fundraisers across the street while Congress is in session. What kind of message does this send to the American public? If it is improper to mix official and campaign activities, it follows that it is improper to have Members raising funds while legislative deliberations and votes are taking place in the House. While I believe there is nothing intrinsically wrong with holding fundraisers, I am proposing that incumbent candidates -- i.e., Members of Congress -- be banned from holding these events at times when they should otherwise be focusing their complete attention on the official business at hand.

Another measure that works against competition between incumbents and challengers is the use of taxpayer dollars to mail information back to the voters prior to an election. I support limitations on the use of franked mail for periods preceding both primary and general elections and have included such limitations in my reform plan.

Finally, Mr. Chairman, I believe it is reasonable to require candidates to raise a majority of their campaign funds where it counts: at home. After all, it is the local voters we represent and to whom we are accountable. My bill will require candidates to raise two-thirds of their money within their home state -- half of which must come from within the Congressional district the candidate seeks to represent. This is a fair approach -- because it still allows a level of reasonable flexibility. There is no question that Members of Congress are elected to represent their constituents. They do, however, vote every day on issues which affect the entire nation. To say that a Jewish group from New York could not support the opponent of a racist, anti-semitic candidate from Louisiana is wrong. In my own state, for example, there was a unique campaign in 1994 that featured a grass-roots, Internet-based effort to raise money for my colleague George Nethercutt. It attracted donations from all over the country. Under proposals which ban all out-of-state contributions, George Nethercutt might not be here today.

The CHAIRMAN. Now it is my honor and privilege to recognize the Speaker of the House, the gentleman from Georgia, Mr. Gingrich, for such time as he may consume.

STATEMENT OF HON. NEWT GINGRICH, SPEAKER OF THE HOUSE OF REPRESENTATIVES

Speaker GINGRICH. Well, let me thank both of you for what I think is exactly the right tone in starting these hearings, which I think could be of historic importance. I came to the Congress with Chairman Thomas. We both came to serve on this committee, and I served prior to becoming Speaker on this committee with a great sense of contribution on a bipartisan basis and working with my colleagues on both sides, both in running the House but also in looking at election reform.

I want to confess that frankly one of the areas—and I think what Mr. Fazio said is absolutely the hallmark of how we should be approaching this. In the 1970s we adopted a whole series of things we thought would work. We are now told that in many ways the reforms are the problems.

We also—and I will give you an example in my personal experience. I once co-authored—or authored a preface to a book called "A Nation of Associations," in which I praised the political action committee system because in the late '70s and early '80s, it seemed like the logical place to have people voluntarily organizing their effort in a manner you could trace and understand, and it fit what we thought in the late '70s were the problems of the Watergate period.

Then I read Brooks Jackson's marvelous work on "Honest Graft," which showed how brilliantly our former colleague, Mr. Coelho, came to dominate the PACs in Washington and how they became an instrument of Washington. And I would say to all of you with a certain cheerfulness and a wry sense of amusement that now that we are the majority, it turns out that everything Mr. Coelho did works; and that, in fact, to a discouraging degree, the political action system has become an arm of the Washington lobbyists, and in fact simply follows power without ideology; and is, in fact, not an appropriate system for the expression of citizen concern, although I think on a constitutional basis it is probably not something we should ban, but rather something we should rethink from the ground up.

But the point that Mr. Fazio made is where I want to start, that all too often when we have someone who has their single magic solution which will cure everything because they don't have any historic understanding of it, they haven't been through it, they haven't thought about it over a long period of time, and they may be asking the wrong questions.

I believe we need a very profound overhaul of our political system. I think we have to look at lobbying, at campaigns, at parties, at the behavior of incumbents, of the nature of Washington, what is happening as we shift into an information age. I think candidly there are grave threats to the survival of American freedom and self-government as we know it.

But the threats aren't necessarily those that Common Cause targets. The rise of media oligarchies, including Mr. Rupert Murdoch—who many of you have attacked me about—but all the

media oligarchies, including my hometown favorite Ted Turner, whose Braves just did a wonderful job, but who now is part of a huge system at Time Warner—including the rise of Disney/ABC.

We have to look at the rise of foreign money. When Hong Kong closes down, there will be a whole wave of new billionaires who arrive in America. What will their power do? Rome collapsed in part because it couldn't cope with the money that came out of Asia as the Roman Empire expanded.

And what do we do in a world market where people can transfer billions of dollars into this country from anywhere on the planet, whether it is cocaine dealers in Colombia or it is Russian Mafia or it is legitimate honest Chinese businessmen afraid of what may happen to Hong Kong? What do we do about the rise of millionaires and billionaires?

I have to say with great candor, I think it is very dangerous for this country to have the dramatic increase in purchasing offices, whether it is Mr. Perot's effort to purchase the presidency or it is good friends of ours who want to purchase Senate seats or it is honest reasonable Members who want to purchase House seats. And the fact is, that is in part a reaction to the collapse of the parties and to the fact that we have all too many—the incumbents have too much power and only millionaires are competitive.

We also have to look at the decay of political parties, which I will return to. But I think this is the core place where Common Cause is just plain wrong. To focus on election campaign reform, without putting it in a political party systemic approach, is a profound mistake. And I will come back to that.

I also think we have to recognize that all of the growth of our society, 260 million people, a worldwide system of commerce and military power, an information age explosion of data, means that the average citizen today feels more alienated and more isolated, and there frankly I found most sobering reading Peter Green's "From Alexander to Actium" and his description, his vivid description of the collapse of civic life in Greece and its parallel in Greek drama, as it went from serious plays about serious public policy to soap operas and light comedies, because Greek citizens just psychologically withdrew from the process of self-government because it became too hard.

Senator Dole and I have discussed and will propose a commission. This is my response which I promised after New Hampshire. I believe we should have a commission on power and political reform on the information age, not narrowly on campaigns. I believe that commission should have eight members from each side, eight recommended by Senator Dole and myself, eight recommended by the President, Mr. Gephardt and Mr. Daschle.

I believe that commission should meet regularly and have adequate funding. I think it should have exhaustive hearings and I think it should report by May 1st. I think the report should be in two parts. On any item in which two-thirds of the commissioners agree, I believe they should come to the Floor of the House and Senate, much like the Base Closing Commission.

On any item which gets a simple majority, I believe it should come up as a recommendation which we would have an obligation to hold hearings on and consider in a second bill. I would like us

to spend the summer of next year restoring honest self-government and have passed a bill before the end of the session so that we could go into the fall campaign knowing that we have done our job.

Now, let me outline a few things.

In parallel to the commission, which I hope the President will accept and sign and I hope we can frankly offer on a bipartisan basis and pass on a bipartisan basis, my hope is that this committee will hold a series of hearings of historic importance over the course of the next four or five months. And I want to outline what I think you should look at.

Let me start by citing David Broder talking about our current political situation. And this is a direct quote from Broder.

> The governmental system is not working because the political parties are not working. The parties have been weakened by their failure to adapt to some of the social and technological changes taking place in America, but even more, they are suffering from simple neglect, neglect by presidents and public officials but particularly neglect by the voters.

He goes on to say,

> What we have is a society in which discontent, disbelief, cynicism and political inertia characterize the public mood; a country whose economy suffers from severe dislocations, whose currency is endangered, where increasing numbers of people and even giant enterprises live on the public dole, a country whose two races continue to withdraw from each other in growing physical and social isolation, a country whose major public institutions command steadily less allegiance from its citizens; whose education, transportation, law enforcement, health and sanitation systems fall short of filling their functions * * * and a country still far from reconciling its international responsibilities with its unmet domestic needs. We are in trouble, and now, unlike a decade ago, the people know it. The question is: Can we still save ourselves from deadlock without sacrificing our democracy?

Eloquent words, written in 1971 in a book called "The Party is Over," which is, I think, a superb introduction to the decay of the American political party, which I think is one of the keys to re-establishing where we are going.

The reason I say that is that power has to be mediated. Somebody has to be able to bring together the long-term responsibilities of where we are going with the immediate requirement of running for office. Somebody has to say to average citizens of average wealth, with an average amount of time: Here is a rational way to organize your involvement as a citizen. And that structure has been for 200 years the political parties, first invented by Jefferson and Madison and Burr in the origin of the longest-lived and greatest of our parties, the Democratic Party, which is the longest existing political organization in the world.

Because the parties have collapsed, the opportunity for middle class people to rise has gone down. When I entered the House in 1979, 24 of my fellow Members were millionaires. That number today is 61, every seventh Member of the House. That is profoundly disturbing. The Senate is far more dominated by millionaires.

And we see around the country, on a bipartisan basis, millionaires who buy office, and that's what it is. The writing of a large enough check to hire the modern version of political bosses, hired hacks who go from state to state often using literally the same ad, simply redesigning it for the newest shot, almost always negative, almost always irresponsible, and often totally dishonest, on a bipar-

tisan basis. And we produced a campaign system none of us can be proud of and which serves the country ill.

One minor suggestion I am going to suggest to you, and I have a number of suggestions as I go through this, but one for you to consider is that, one, we look at the degree to which incumbent protection leads to the rise of millionaires in public office.

Two, we look at the degree to which the decline of parties inhibits the rise of people of average means; and three, we consider seriously dropping all campaign contribution limits to a candidate whose opponent spends in excess of $100,000 of their own money, thereby at least evening out the field so that both candidates have equal resources.

Let me also state——

The CHAIRMAN. Would the gentleman yield for just a moment?

Speaker GINGRICH. Yes, I would be glad to.

The CHAIRMAN. I will announce to the Members that the vote is on the journal. The Chairman and the Ranking Member will purposely not cast our votes on the journal so that the committee hearing can proceed. Any Members who wish to go cast their votes may do so.

Thank you, Mr. Speaker.

Speaker GINGRICH. When I say, as I did a while ago, I think it is important to understand that most modern campaign critique comes from the left, starting with the distrust of the private sector, a dislike of private resources, an assumption that money from the state is good, that money from individual citizens is bad, and a belief that it is the campaigns that matter, not the larger system of the parties.

One of the results has been federally funded campaigning, which had exactly the result conservative theorists would have suggested, that is, if you make money available people will find a way to get there.

My favorite example is Lenora Fulani. Lenora Fulani—because what happens is you have sort of a nut class of politics. Lenora Fulani has received $3.5 million from the taxpayers in the 1984, 1988 and 1992 campaigns because she has found an industry. Her industry is to get enough people to support her to be eligible for tax-paid funds so she can then earn a living getting tax-paid funds. It is a terrific racket.

Lyndon LaRouche received matching funds, according to a George Will column of June 4th, 1995, even while he was in jail. So what happens is when you set up a socialist model of government-paid campaigning, people learn how to get on the dole. The dole this time is not welfare. This is political welfare. So I would say that this is part of why I think Common Cause has been at a dead end, frankly.

What we need to look at is that candidates and parties need money to introduce themselves to the public and yet today we have an inappropriate system of finding the money.

Frank Sorauf, a professor at the University of Minnesota, wrote a very interesting paper in 1987 in which he compared the mass media of the United States today as a version of the progressive political outlook which dominated American society from the 1890s to the 1920s. The progressives saw the American public as being

decent people, yet prey for rapacious special interests intent on buying elections and corrupting the political process.

This is what Professor Sorauf wrote in the Political Science Quarterly of spring of 1987.

[C]ontemporary investigative reporters are in many ways the grandchildren of the Progressive muckrakers. * * * Very few aspects of the American political process reinforce the Progressive world view as effectively as the American way of campaign finance. Its cash is an easy measure of influence and its PACs are perfect embodiments of the special, vested, or selfish interests.

It is indeed usual for newspapers to define PACs as, "special interest groups,". If one makes the simple assumption that public officials defer to their campaign contributors more easily than they do to their party, their own values or their own voting constituency, one has the perfect scenario for the triumph of the wealthy special interests over the will of electoral majorities and the general or public interest.

That summarizes the guilty-until-proven-innocent approach that candidates are confronted with in today's highly charged atmosphere. Sorauf illustrates how this inherent bias affects campaign finance coverage, often resulting in sloppy and inaccurate stories.

That is, ABC News owned by Disney is not a special interest. So a multimillionaire broadcaster on ABC News being given free access to the American people doesn't represent political power. On the other hand, a thousand dollars written by the broadcaster's spouse is political power. It is simply a nonsensical socialist analysis based on hatred of the free enterprise system, and I think is fundamentally false.

The three networks spent $1.1 billion on news in one year, with profits of nearly $200 million. By comparison, the total spent in the 1992 presidential campaign is $550 million on all sides. The Disney/ABC merger by itself is worth $19 billion.

So when we talk about money and politics, let's put it contextually where it is. Campaign spending rose from $109,000 per congressional race during 1978, the first time I won, to $440,000 last year. That represents about $3 per eligible voter. It is less than $1 per citizen in the district. And one of the greatest myths of modern politics is that campaigns are too expensive. The political process, in fact, is underfunded; it is not overfunded, the political process. But I would emphasize far more the money in the political system—I mean in the parties.

Let me also say, I think we have to look at political freedom against the state. I was told this summer by a corporate CEO for a Fortune 100 company, and my guess is that Mr. Fazio has had similar conversations as a leader of his party, that he could not be a co-sponsor of a congressional campaign committee fundraiser because he has to do business with Ron Brown. This is not an attack on Ron Brown. It is a statement of fact.

I suspect there are occasions, now that we are the majority, the old people who used to be your friends tell you they can't give you money. But my point is to say this: It is not—the state has power. It is good on the one hand to list everybody's contributions. On the other hand, we ought to understand, in the long run that means to dissent is to put yourself at risk.

And so I think, again, you have got to come back and ask some very fundamental questions about what should the rights of the citizen be, what is their ability to protect themselves, and in what way if you have an aggressive state does it punish or coerce those

who dissent, and how do we protect the rights of individual freedom? How do we make sure that citizens can run?

Don't think of candidates as much-maligned politicians. Think of candidates as potential elected citizens. Just use the term "elected citizen" for a little bit. See how different it sounds and how different the implication is. And ask yourself, what does it cost a citizen who wishes to seek election to market one's self, given the scale of the modern media?

Let me give you an example I live with. The Cox sisters own the largest television station in my area, the largest radio station in my area, and the only major daily newspaper in the state of Georgia. They have all three. Now, they don't give any contributions to my opponent, but I would guess that over half the money I raise is spent offsetting the weight of their newspaper. I think any Republican from Iowa would tell you that the Des Moines Register so dominates the politics of their state that they have to spend a third to half of their campaign offsetting the Des Moines Register.

Now, it is perfectly natural for the news media to want campaign spending limits. That means more power for editorial writers, more power for columnists, more power for reporters, but it means less ability for citizens outside that newspaper's biases in order to answer and respond to the publication.

Let's also be honest about what it costs to communicate in America. Three antacids, Pepcid AC, Tagamet and Zantac spend $300 million a year. So on the concept of what should you put in your stomach if you need an antacid, we spend $300 million a year. Microsoft '95's national launch cost over $250 million. Tiger Electronics, the third largest toy manufacturer, during the Christmas season, spends $30 million.

By contrast, in 1992, a major political party spent $110 million. That is, the Democrats or the Republicans nationally in the general election of '92 spent one third what we spend on antacid. Ross Perot personally—or spent $68.3 million, I don't know how much of that was personal—but he spent $68.3 million.

Congressional spending for all the congressional seats was $600 million. That's 435 House seats and 33 Senate seats, was the equivalent of two antacid campaigns, all of them. Every idea, balance the budget, gay rights, abortion, national defense, all of them was the equivalent of two antacid campaign ads, and yet we are told politics is too expensive.

We cheat our system. We don't communicate rationally. We don't have enough information. People don't get enough data. There is a report—there is a suggestion in Kentucky that turnout will be down because the campaign limit is so low that people literally aren't getting the message there is an election underway. And I would commend to the committee that you look at the effect of state campaign limits and how much citizens actually know about the campaigns.

I also want to suggest that the current campaign law has some profound weaknesses, and that the Federal Election Commission in its current form is, frankly, profoundly destructive. The current Federal regulatory system makes it harder for an average citizen to get involved in politics because you have to hire a lawyer and you have to hire an accountant to meet Federal regulations.

The current system also, I believe, encourages every presidential candidate to cheat. I mean, if you were to hold a hearing and ask in any of the last three campaigns, how many campaigns arrived in Omaha to rent the car—I mean, just think about it. The Iowa primary, the Iowa caucus, because of the state level limits, we basically say to every presidential campaign, in the name of honest politics, why don't you rig your expenditures if you are going to be competitive. So you break the spirit of the law, although technically being legal. And there is something profoundly wrong with reforms that encourage cheating.

In addition, the laws have stagnated. A thousand dollars in 1974, the limit for primary and general election campaign contributions per individual, in constant dollars, is worth $356. That is, if we were to allow citizens today to contribute a thousand dollars in 1974 money, the limit would be $2,808. And one of the things I want to recommend to this committee is that you reverse the limits, give individuals a $5,000 limit, give PACs a $1,000 limit and then index both.

I also want to suggest you create an entirely separate limit for giving to parties, any party. That would include independent and third parties, but that giving to a party should be a separate limit from giving to candidates, because I think we consciously want to strengthen the parties.

I am also willing—and this may surprise some of you since I am now the Speaker—I am also willing to have us establish a principle that the parties should be able to offset the incumbent's office expenses at least up to some limit. 40 percent, 50 percent, but in some way. It is profoundly unfair for me to have all the advantages of office and go back home to take on a challenger who starts out with zero. I don't think it ought to be 100 percent, because as Barney Frank once pointed out, there are a lot of things we have to do that don't necessarily help us.

But there should be some party offset that allows the opposition party to spend a larger amount as a party than the incumbent party in order to have a fair campaign. I'm willing to do that even though it clearly is to the Republicans' disadvantage.

I also want to recommend we relook at revisiting the individual tax credit which we had in the '70s, and which I think was a step in the right direction to encourage individual contributions at the small dollar level.

But there is a deeper part of this, and this is why I emphasize not just looking at campaigns. Power flows somewhere. You never kill power. You just distort it. If you hide it, if you force it underground, the tighter the limits on the campaigns, the more independent expenditures there will be. The tighter the limits on the parties, the more money will grow up under 501(c)(4)s and a variety of grotesque institutions.

One of the challenges I would like to make to this committee is, early next year when we have time to truly gather the information, take a look at this fall on both sides, who raised money, who spent money. I mean, our side believes, for example, that at least $20 million is being spent by the unions in an ad campaign naming by name members of the House. Now, if we have campaign limits, would that go under the limit or would that be outside the limit?

I suspect you all believe that we have friends who are putting together ad campaigns designed to strengthen our position, but we need to put in context the totality of what happens in American politics and not simply look at it in a narrow, isolated way.

And let me say to you: I believe the rise of irresponsible money, outside the parties and outside the campaigns, is a much greater threat to America than the monies spent in the campaigns.

And, again, without being too academic, I would encourage you to at least have your staff talk with experts around the country about what happened in Greece, in Rome and the period from the English Civil War up through our Constitution, and to look at the works of Jefferson and Madison, Lincoln, Theodore Roosevelt, Henry Cabot Lodge, and Wilson, because this is not a new problem. This problem of how do you organize power so people can be free has happened over a very long period of time.

Let me just say, in closing, and I appreciate your allowing me to offer you this broad overview, I really am—and I have had a fair amount of experience. I first got active in politics in the late 1950's when I was in high school. I was a volunteer for the Nixon-Lodge campaign in 1960, Muscogee County, Georgia. I have run a congressional campaign. I have been a state leader of my party. I was a—worked on presidential campaigns. I ran for office, obviously, and I lost twice and I have won office a number of times.

I am deeply troubled by what I think are the dangers to American self-government. I'm frankly not nearly as troubled by the Common Cause news media versions of those problems, but I do think in the next 20 or 25 years, if we are not careful, we will have so alienated our citizens, we will have so lost touch, the individual candidates will be either rich people or people who are supported by independent expenditures on a grotesque scale.

And I think we need a thorough review of the American political system, and then frankly we need a system's approach. We need a set of principles to be articulated by this committee. How should government work in the 21st century? How should power work in the information age? What is the role of the political parties? And within that framework, how shall we redefine incumbents, lobbyists, candidates, volunteers?

And I can pledge to you that on the part of my office, we will cooperate on a bipartisan basis, because if we do it right—and we have been through several rounds that have failed. So I think we have some experience here. Everybody who is senior on this committee has been through several experiences that failed, beginning I think in 1980 when we were freshman. We have a chance now, I think, if we are honest about it, to produce by early next year a much deeper understanding of what we need to do and in a genuine bipartisan way to move forward.

And I would also frankly be interested in the committee's reaction to the concept of having some kind of bipartisan commission, because I suspect this is the committee that any bill that we would introduce with the President's support would be sent to.

So thank you for letting me testify.

The CHAIRMAN. Thank you very much, Mr. Speaker.

It has been very helpful to have you initiate the discussion because most of us believe that the subject matter is far more com-

plex, far more reaching than most people initially assume. The context of your speech put it exactly where it should be, and that is, we have made a number of mistakes in the past and tried to correct them. These mistakes have led to unintended consequences which, as the gentleman from California said, we now have some folks offering corrections to the corrections. It is time to stop, to take a look at where we have been historically, and ask more fundamental questions as you have posed to us. Based upon your reading list, I expect three units of college credit for this.

Speaker GINGRICH. Since you are a political science professor, I will let you lead the course. I will just come as a guest lecturer.

The CHAIRMAN. But it is not a simple black and white easy solution problem, and for that I very much appreciate your testimony in the context in which it was delivered.

We have the ability to ask some questions, if any of the Members wish. The gentleman from Arizona?

Mr. PASTOR. Mr. Speaker, good morning.

Speaker GINGRICH. Good morning.

Mr. PASTOR. You talked about the limitations that we have today are not realistic because of inflation, et cetera. There is some thought in this country, that possibly the issue of limitations is—should not be discussed, but rather it is the disclosure that is more important. And people feel that in today's technology, through E-mail and faxes and all of that, that you can almost report immediately and should be required to report immediately any donation that you receive.

My question is, basically, would you be willing to consider taking the further step and saying there should be no limitations but disclosure should be immediate and you could——

Speaker GINGRICH. Well, I would—I am not sure I would go to no limitation, although I would certainly entertain that. I don't think the limitations in the long run are particularly helpful because what happens is people who really want to be involved find other ways to spend money and it is less easy to discover and less easy to be directly involved with.

The only thing I would suggest—I have no problem because I think you could technically literally have every night filing, but I think we ought to be honest about it. Again, it is one of the things that our friends in the news industry never cover accurately and that Common Cause doesn't understand at all.

You have campaign volunteers. You receive checks during the day. You may receive 200 or 300 if you are having a big event. An honest, sincere person enters all the data but makes 3 mistakes out of 1,500 items being entered. When that—if that is filed that night, and I have had this experience, if that is filed that night, is that now legally binding? Or is that, in fact, an initial filing subject to review within 30 days?

I would just say to my friend we need to think it through. I have no problem, frankly, having much more immediate filing, particularly in the last month before an election, when you could have a sudden infusion of cash. I would just commend you to think it through and to have hearings and to not criminalize honest behavior by sincere people who may miss—you know, may enter them wrong.

The FEC's adversarial attitude is exactly wrong and what it does is it creates a very harsh environment in which everybody deals with the FEC as though they were the IRS of politics. That is exactly the wrong attitude to have if you have to have citizens and amateurs involved because they care about their country.

Let me say one other thing about the limits. In 1974, the average House campaign spent $109,000. In 1994, the average House campaign spent $440,000. In 1974, it cost $32,000 to buy a 30-second ad on a national network. In 1995, it cost between $150,000 and $178,000 to buy the same ad. So network television advertising went up at a rate faster than politics.

Again, I am just trying to make the point here that we ought to put in context the limits that were set in the 1970s and ask ourselves realistically: Do we truly want to starve the American people of information?

Mr. PASTOR. Thank you, Mr. Speaker.

The CHAIRMAN. Does the gentleman from Florida wish to inquire?

Mr. DIAZ-BALART. Thank you, Mr. Chairman.

Thank you, Mr. Speaker, for your presentation. I think that it is so important to realize that this is a—such a larger issue than is usually thought of.

I am an American citizen of the American middle class, and I could not participate in the political process, and it was so succinctly brought to light and I was thinking about it when you were talking, if I depended—if campaign spending in my campaigns were more than simply a peripheral way for me at election time to communicate my message. In my community we are very fortunate that there are some fair and objective people that happen to own a small newspaper or a radio station or that happen to manage a television station and permit the message to be communicated to the people. If I had to depend on the Knight Ridder newspaper in my community to cover what we are doing up here, I really don't think that come campaign time it would be possible to counter, not only the editorials but the slants on a continuous basis of the articles that the newspaper produces throughout the two years.

So I want to commend you for pointing out that what we are dealing with are not trees here but really a major forest and that also we need to look at the historical context.

I think it is very important that you brought out that one of the great—one of the great problems that we are facing is the ability for people with a tremendous amount of money to purchase—to purchase seats in Congress, and one thing, Mr. Chairman, that I think that we really have to focus in on in these hearings, as we look at these issues brought before us, such as limiting further campaign contributions, is precisely the issue of the effect of such a limit when one's opponent has no limits. I know that the Supreme Court has held that that is a freedom of speech issue.

So, Mr. Speaker, let me commend you not only for bringing forth the big picture but for your courage and for, I think, setting a framework here that will be very, very helpful, as we proceed in these months in further hearings.

The CHAIRMAN. Does the gentleman from Maryland wish to inquire?

Mr. HOYER. I don't wish to inquire, Mr. Chairman. I want to commend the Speaker. I think his comments were very useful, very helpful.

I think that the American public, would, be surprised in the commonality of perspectives, perhaps not the answers but the commonality of perspectives that exist among those on both sides from various different ideologies who have been in this campaign finance system for a long period of time.

I became active in the Kennedy campaign; you, in the Nixon campaign. We were on opposite sides. I then was elected to the State senate in 1966. I was interested in your quote of the Broder book, because in my opinion the decline of parties, in your favorite phrase, has, in fact, had a profound impact on the practice of politics and the financing of politics and the disintegration of focus of politics and a sense in the American public that where divided; where we have gridlock; that we cannot act.

I also think that you reiterated the comments made by so many; that relatively speaking, the communication of political thought is relatively underfunded in America, not overfunded. Whether it is parties clearly or candidates. And also that since 1974, the value of the limits provided, and you and I may have a disagreement as to whether collective groups ought to be able to contribute more heavily than individually wealthy people. Obviously, there are few people in the country who can contribute $5,000 to you, to me, or to others. That is not true of the collective. So we may disagree on that.

But relatively speaking, you mentioned 350 some odd dollars as the contribution that now the thousand dollar limit reflects. It is about $1,200 that the $5,000 reflects. So that by operation of time and inflation, we have substantially reduced the value of the contributions to be made either by collective groups known as PACs or by individuals.

But I think the comments that you made, I think on our side you probably have an awful lot of agreement, and I think, in fact, if we can pursue this in a bipartisan fashion, as we have done some other things, dealing with millionaires and salaries and things that are very controversial, but are made less so if in a partisan context, the American public understands that we can very substantially disagree on the policies that we want to pursue but not necessarily disagree substantially on the context in which those policies ought to be put forward to the American public, decided and resolved. And so I think it was a useful presentation.

I thank you for it.

Thank you, Mr. Chairman.

The CHAIRMAN. Does the gentlewoman from Washington wish to make a comment?

Ms. DUNN. Thank you, Mr. Chairman.

Mr. Speaker, it is always a pleasure to hear you speak. I think you often elevate our perspective and broaden our perspective. In this case, I realize now more than ever that we have a big chore to do as we look at the broad picture of finance reform. I think we have an historic opportunity if we go about reform in the way that you suggest.

I also like the combination of the time line that you have laid out, so that by the end of this Congress we can come up with a set of reforms that really will solve some of the huge problems into which we have run. So I am going to be working toward this end.

I would like to ask you one question, because it has been something of a problem for the Congress in the past. How do you envision working with the Senate so that we can put together a really good, solid bill on campaign finance reform and prepare it to go to the President?

Speaker GINGRICH. I think, first of all, as I said a little while ago, Senator Dole and I have discussed the idea of creating a commission which I think is an important first step. If we can get bicameral bipartisan support for getting that up and running, I would hope that the Senate would consider a set of parallel hearings to what you are going to be doing because I think you can create a new context for reform. And if the Senate could agree in their appropriate committee to hold similar hearings at some point, I would like to suggest you actually have some meetings that are joint.

As you know on the budget, for example, we have had substantial success in working in a bicameral way. We have a meeting every morning at 9:00 a.m., that is, a joint House-Senate leadership meeting. I think that this—recognizing the complexity of our own constitutional system that there is actually an advantage to occasionally reaching beyond—the building doesn't have to be—as somebody said, it is really further from the House to the Senate than you think because you go around the world to come in the other side of the building to get there, and our cultures are sometimes that different. They don't have to be.

So I would hope—and I think Senator Dole is committed to working on a campaign reform approach that really is bicameral and bipartisan. And as I said, I hope this will—the President feels this meets the conditions we set back in New Hampshire in the spring and that he will agree to support and to sign in creating a bipartisan commission to look at the totality of political reform.

Ms. DUNN. Thank you, Mr. Chairman.

The CHAIRMAN. The gentleman from California.

Mr. FAZIO. Thank you, Mr. Chairman.

I wanted to simply say as relates to the commission that we do need to talk about this. I think the idea that you present is a provocative one, and I think it does require that we take a larger perspective than simply campaign finance reform, because that is a part of a total breakdown in the American political system.

I wanted to simply get more information from you on two things: One, I think most of us realize that we have contributed greatly with the money we raise and spend in campaigns toward the negative attitude that people have about us, the process, and governing itself. Would you be willing to enter into the thicket, it is a first amendment problem, of trying to in some way regulate what television ads are run so that we avoid the relentless negative which turns off everyone even while it may drive people back to their political core, which has probably contributed not only to a lack of participation but even by those who participate to a disgust with the choices they have to make?

Speaker GINGRICH. I am certainly willing to look at how you could do it given our constitutional right of free speech. I mean, I do think there is something inherently wrong with a system where you have the right smear for the last four days you undo two or three years of hard, sincere work, and somebody who doesn't have a clue what they are doing can buy an office for—with 50.1 percent of the vote because they had the best hired gun. And this is a problem we see across the board.

You see the same thing, frankly, with trial lawyers in terms of who can hire the best guy to go into court, and I think it is a problem of a money society, that when commerce becomes dominant values tend to decay. So if we can find a way, whether it is, for example, requiring the candidate to appear in the same ad, and I don't know if that would be legal or not legal, but I mean some device that reestablishes a sense of responsibility.

It does—the other point I would make, I guess, Mr. Fazio, which I have been struck by because of my interest in what is happening to the Information Age, about the point we figure out what we would do with the world that had three networks, there are going to be 500 channels. And I have not got a clue what that is going to be, but probably it is going to mean that no single ad ever hits anybody anymore. You are going to have this very divergent——

Mr. FAZIO. We are targeting our TV spots like we do direct mail.

Speaker GINGRICH. I used to think it would be a good idea to have some kind of a time requirement, like the British and Canadian model. The problem that you have now is that between going to Blockbuster to rent the movie and flipping channels, you know, people would simply manage to find a new way to avoid the information.

So it is—one of the things you may want to consider, and I don't know what the financing would be or how we would do it ethically or whether a foundation could do it in a way that was ethical, it would be very interesting to have a series of focus groups that just—that asks citizens how do you get information, how would you—how would you like to get information and would you actually do it? And maybe even as we begin some primaries next year, looking at it in a kind of real-time way because I think sometimes we sit up here, we are fascinated with politics and we read the Post and the New York Times and the Wall Street Journal and the Washington Times and everything we can get our hands on, all of our back home papers, so we are drowning in data.

But if you look at this morning's paper that says 60 percent of graduating high school seniors fail any knowledge of American history, it is sort of a grim reminder that there is a growing noncivic population that, frankly, doesn't learn much about anything. They know about O.J. but they don't know much about Bosnia and they sure don't know much about the budget, and they don't have a clue what the word "reconciliation" means.

I would just suggest to you that we ought—I would like to visit all of that, even having a constitutional lawyer standing near us nodding yes and no. But I think we could be more creative in moving towards an information-filled campaign rather than a smear-filled campaign, and I would like to see that on the table very much.

The CHAIRMAN. Does the gentleman from Michigan wish to inquire?

Mr. EHLERS. Thank you, Mr. Chairman.

First of all, Mr. Speaker, thank you, once again, for your excellent testimony and bringing the larger perspective, as you always do. As a relative newcomer here, I appreciate the historical perspective you laid out, too, and I want to tell you that.

I also appreciate your mention of the self-funded campaigns. I, as the gentleman from Florida indicated earlier, am not a person of means. In fact, every job I have ever had in my life paid me less than the job I had before, until I came to Congress. I went from teaching at Berkeley to teaching at Calvin College to the State Legislature, and it was downhill all the way. So when I ran for Congress, I obviously did not have a great deal of personal wealth; I had virtually nothing.

I faced four millionaires, three in the primary and one in the general, each of whom spent $400,000. I spent $140,000 and won. I think part of it is the volunteers. I had 1,000 volunteers. They each had a handful. You can win without money, but it is difficult when you face opponents who have unlimited checkbooks and pocketbooks and don't even have to go to the people for their money. And that is an issue I believe has to be addressed.

The other question I have for you relates to the commission that you suggested, which I know you had previously discussed with the President and with Bob Dole. My question is specifically, and you mentioned the main one, what is the timetable for the commission, which is perhaps equivalent to our timetable, maybe even a little faster, and then the real question is how is their work going to meld with our committee work?

Speaker GINGRICH. Well, I would hope ideally if we could do this that if we could work it out—as I said, I think this will be the committee of jurisdiction so obviously Chairman Thomas and Mr. Fazio would play a lead role if we went down this road, if the President thought it made sense.

But I would hope that the Senate committee, the House committee, and the commission would work as a team, think through the work to be done and share information and resources and ideas so that you would have all spring a blending together and a dialogue. I mean, I don't think they need to be out here in some separate track on their own and then magically appear on around May 1st.

I think it ought to be—you know, as you know from the way we work together, I really believe in building bigger and bigger teams and getting more and more people in a common dialogue and in the Information Age. There is no reason with bulletin boards and conference calls and teleconferencing that you can't do it. So I would hope that they would be supplemental to and also would draw upon the expertise of the committees.

I mean, a number of us have been through this three or four times already. We know it won't work. We can be of great advice to the committee in saying, let me tell you, you go down that particular alley, you haven't got a prayer of getting it done.

Mr. EHLERS. I guess my concern is that it sounded as if you were saying this would be like the Base Closing Commission, that their

recommendations would go directly to the Floor and not to the committee.

Speaker GINGRICH. I think my proposal here, and I think the President would have to sign off and we would have to see if the House and Senate leadership would sign off, my proposal would be that if you had eight on each side, if they—if there was an idea so popular that two-thirds of the commission voted for it, that it is reasonable for that to come straight to the Floor, much like the Base Closing Commission, but I also think you would see that emerging through drafts and through dialogue, and, again, I don't think it can be done in a hidden room somewhere and then thrown over the door.

But it does seem to me, on the other side, if you are going to ask somebody serious to be on this commission, they have to have some knowledge, some guarantee that their work is not just going to be one more report filed and not done. So I think—but that would mean you would have to have several Democrats join with the Republicans or several Republicans join with the Democrats or some mix in order to get to a two-thirds vote for the commission to work. That would be my only point.

Mr. EHLERS. Thank you. I think it would be very important, once again, to establish the rules for the open meetings requirements and so forth. Frankly, I would feel more comfortable with the normal constitutional requirement of a three-fourths majority.

Speaker GINGRICH. That is negotiable, I think from both sides.

Mr. EHLERS. But I seriously want them to mesh carefully with what we are doing, because I think that the Chairman has outlined an ambitious program and we are all very serious about doing this and doing this right. Thank you.

The CHAIRMAN. I thank the gentleman.

Let me tell the gentleman from Michigan that although this committee clearly has jurisdiction over the Federal question, the idea of moving a commission which is bipartisan, looking at the larger question in the larger context is, I think, a positive one, because all of the discussion that has been carried on this morning by the Speaker is going on at the State level as well.

Just for an example in California, which has tried to pass some kind of spending limits, some of them less wise than others, we currently have virtually no limits and we are in the process right now, because of the recall structure in California, of having folks who get elected have to get elected inside of the election cycle with millions of dollars spent because of no limits. Some of the material and background discussion that would go on at the commission level, which would probably be primarily focused at the Federal level, could have, I think, a very beneficial effect in shifting the debate not just at the Federal level but at the State level as well so that people can better understand the question of dollars in the system and, in fact, power as the Speaker described it.

So I think elevating it to that level would be very beneficial not just for us at the Federal level but for those of us who are struggling about those same questions at the State level.

Just let me say that I am now prompted to indicate one of my biases because I do not want to have it go unnoticed.

When I was in the Minority, I was very concerned about what was happening to political parties and I accepted co-Chairmanship on the Committee for Party Renewal, which is American political science and a number of political people who were interested in strengthening our parties.

I chose not to move away from that position as Chairman, and so if anyone finds out that I am co-Chairman of the Committee on Party Renewal I am going to stay there because I do think we need to focus on that. So if anybody discovers that, I have already made it public that I am involved and concerned about our political parties.

Mr. Jefferson, do you have any questions for the Speaker?

Mr. JEFFERSON. No.

The CHAIRMAN. All right. All of us thank you very much for not only the tone but for the content of your message as we begin these very important series of hearings. Thank you very much, Mr. Speaker.

The Chair wishes to announce that we are currently waiting for the Minority Leader. We will hear from him before we begin our panels consisting of more than half a dozen Members who have bills that have been introduced on the subject matter of PACs, running a relatively broad gamut of approaches to PACs, frankly.

The committee now welcomes the Minority Leader, the gentleman from Missouri, Mr. Gephardt. You may discuss with us your ideas for as much time as you wish to consume.

STATEMENT OF HON. RICHARD A. GEPHARDT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSOURI, AND HOUSE DEMOCRATIC LEADER

Mr. GEPHARDT. Thank you, Mr. Chairman. I deeply appreciate this opportunity to appear here. I know that this group of Members has worked very hard in the past on campaign reform and I look forward to working with you in the days ahead as we try to get something finally done on this subject that will be very positive for our people and our country.

I want to begin by borrowing a few words from the report that accompanied H.R. 3 in the last Congress, which I believe was a tough campaign financing bill that passed the House overwhelmingly but was killed by the Senate Republicans. I quote:

> . . . The presumption of fairness has been seriously eroded . . . by the large sums of money raised and spent in today's elections. And it is futile to try to sort out how much of this erosion is justified by reality and how much of it is simply a perception. . . . For as the sense of legitimacy of our elections is eroded, so too is the fundamental legitimacy of government itself.

Mr. Chairman, regardless of which party is in power in the Congress, I would like to be able to say that in the 104th Congress that dangerous reality has been changed. In fact, in the eyes of most Americans the problem has gotten even worse. We see reports of bills written from start to finish by lobbyists. We have heard of back door giveaways of billions of dollars to special interests. We see tax bills that are special interest smorgasbords offered in the same budget that raises taxes on working families. Let's be honest. The American people are sick of it and want change and it is time for massive, radical change.

In the past, we have made a lot of good faith efforts to reform the current system. These were valuable and can be the basis for today's debate. But at the same time, I think we have to use this occasion to step back from these kinds of narrow nuts and bolts reforms and start to think more broadly and more boldly about the entire system, about the way people see the system and what would possibly change the system so that in reality and in substance and in perception the American people really believe that the system has been changed dramatically for the good.

I don't think we should limit our thinking by the scope of existing laws or court decisions, such as *Buckley* v. *Valeo.* I think we need to open our minds to dramatic fundamental change in the very nature of political campaigns.

First of all, campaigns themselves are far too long. The American public is exhausted by the length of campaigns. In the House, many Members have to begin campaigning for reelection the day after the last election. If you are spending virtually all of your time in a never ending election, how can you do your best to serve the people who elected you in the first place? That is why we should look at a serious limit on the length of campaigns, such as in Great Britain, where there is a strict time frame for all electioneering. I think we should consider this idea.

Second, candidates need more opportunities to discuss the real issues that people care about and get beyond the slogans and sound bites that too often dominate our politics. The public simply doesn't believe that their views make any difference, and how can we talk about the real challenges that our country faces, such as falling family incomes or the complexities of health care policy, through a dense fog of political slogans, short sound bites, and bumper stickers?

We need reform that puts candidates in direct contact with people as often as possible. I have found, in my own campaigning, whether I was running for the city counsel or Congress, that door-to-door, person-to-person contact with voters is the most effective way to hear what they have to say and to explain what I would like to do to try to address their concerns. It lets them express themselves in a forum that is not intimidating to them and allows me to give thoughtful answers. We must increase these opportunities for a true dialogue with the voters if we have any hope of restoring their faith in the system.

Third, it is time to take a serious look at the role of paid advertising in campaigns. Advertising has become a major part of the way most campaigns for Congress are run today. And we are seeing more and more ads by groups that are not even connected with the candidate's campaign. This sea of angry voices threatens to drown out all the seriousness and substance. We have got to begin to explore ways to limit or to at least counter the impact of all of these kinds of ads.

Fourth, voters need to become more involved in the electoral process. Our turnout in elections is a national disgrace. Less than 40 percent of all eligible voters went to the polls in the last election. How can any of us claim a mandate to govern when so few Americans are even part of the basic decision of who will go to the House of Representatives? I think we have got to be open to a new

variety of solutions; different days for voting, regional primaries, mail-in ballots, and other ideas should be considered in this reform process.

I think all of us are disappointed with Congress when it comes to campaign reform. To be perfectly frank, it is hard for me to even understand why there has been so much delay on our most basic reforms, reforms that already passed the Senate by a broad bipartisan margin. Our political system, as has been said by many, is in near crisis. Too many people simply don't think we work for them; that we are too closely tied to special interests and to lobbyists. That is why we need immediate bipartisan attention to this issue. It won't be enough to simply put curbs on the supply of campaign money. We have got to reduce the demand, by fundamentally restructuring the ways in which campaigns are run and organized.

We have got to replace the mudslinging with more substantive and serious discussion of serious issues. If we cannot convince people that their voices really will be heard, that their votes do, indeed, make a difference, then in my opinion we are virtually begging them to abandon our political process and that would be the greatest disaster of all for the Congress, for the country, and for the future of the democracy itself.

I understand in previous testimony the Speaker suggested a bipartisan commission to be appointed by the leadership and the Congress and the President to report some time in the late spring. I think that is a good idea, and I would be happy to do my small part in cooperating with that idea, and I just hope that if such a commission comes about that that commissioners will go into an analysis and open their minds to the new thinking and new ideas that are out there.

Senator Bradley put some ideas on the table the other day. They may not be all worked out in great detail. There are other ideas that have been out there. We ought to cast a wide net to get every possible idea. We ought to open our minds to the greatest extent possible, and we should, in a bipartisan way, try to find the very best approach that, in reality, in substance and in perception, will bring about dramatic change in the way we run political campaigns in this country, certainly for the Congress of the United States. And I pledge to you that I will do everything in my power, within my party and with my colleagues, both Republican and Democratic, to try to reach that conclusion.

I thank you for letting me be here and I look forward to answering any questions.

The CHAIRMAN. Thank you very much.

[The statement of Mr. Gephardt follows:]

NEWS FROM THE HOUSE DEMOCRATIC LEADER

For Immediate Release:
Thursday, November 2, 1995

Democratic Leader Richard A. Gephardt
H-204, U.S. Capitol

TESTIMONY PREPARED FOR DELIVERY BY LEADER RICHARD A. GEPHARDT
BEFORE THE COMMITTEE ON HOUSE OVERSIGHT
HEARING ON CAMPAIGN FINANCE REFORM

Mr. Chairman and members of the Committee:

I want to thank you for this opportunity to testify on an issue that is of critical importance to this Congress, and to this entire country: how to clean up our political system once and for all, and make sure that the people's interests come first, and the special interests come dead last.

And I want to begin by borrowing a few words from the report that accompanied H.R. 3 in the last Congress -- a tough campaign financing bill that passed the House overwhelmingly, but was killed by Senate Republicans.

I quote: "The presumption of fairness has been seriously eroded...by the large sums of money raised and spent in today's elections. And it is futile to try to sort out how much of this erosion is justified by reality and how much of it is simply a perception...For as the sense of legitimacy of our elections is eroded, so too is the fundamental legitimacy of government itself."

Mr. Chairman, regardless of which party is in power, I'd like to be able to say that in the 104th Congress, that dangerous reality has been changed. In fact, in the eyes of most Americans, the problem has gotten even worse.

We've seen reports of bills written from start to finish by corporate lobbyists. We've heard of back-door giveaways of billions of dollars to buy special interest support for Medicare legislation. We've seen tax bills that are frankly special interest smorgasbords -- offered in the same budget that raises taxes on working families.

Let's be honest. The people are sick of it. It's time for massive, radical change.

In the past, we've made a lot of good faith efforts to reform the current system. These were valuable, and can be the basis for today's debate. But at the same time, we must step back from these kinds of narrow, nuts and bolts reforms and start to think more broadly and boldly about the entire system. We shouldn't even be limited in our thinking by the scope of existing laws or court decisions, such as Buckley v. Valeo. We need to think about dramatic, fundamental change in the very nature of political campaigns.

First of all, campaigns themselves are far too long. In the House, many members begin campaigning for re-election the day after the last election. If you're spending virtually all of your

(More)

time in a never-ending chase for votes, how can you do your best to serve the people who elected you in the first place?

That's why we should look at a serious limit on the length of campaigns -- such as in England, where there is a strict time frame for any and all electioneering. I think we should consider this approach.

Second, candidates need more opportunities to discuss the real issues, and get beyond the slogans and soundbites that too often dominate our politics. The public simply doesn't believe that their views make any difference. And how can you talk about the real challenges we face -- such as falling family incomes, and the complexities of health care policy -- through a dense fog of political slogans and bumper-stickers?

We need reform that puts candidates in direct contact with the people as often as possible. I have found in my own campaigns that door-to-door, person-to-person contact with the voters is the most effective way to hear what they have to say, and to explain what I will do to address their concerns. It lets them express themselves in a forum that is not intimidating for them, and allows me to give thoughtful, substantive answers. We must increase these opportunities for a true dialogue with the voters if we have any hope of restoring their faith in the system.

Third, it's time to take a serious look at the role of paid advertising in campaigns. Advertising has become a major part of almost all congressional campaigns today. And we're seeing more and more ads by groups that are not even connected with any candidate's campaign. This sea of angry voices threatens to drown out all seriousness and substance. We've got to begin to explore ways to limit or at least counter the impact of these kinds of ads.

Fourth, voters need to become more involved in the electoral process. Our country's election turnout should be a national disgrace. Less than 40 percent of all eligible voters went to the polls in the last election. How can any of us claim a mandate to govern when so few Americans were even part of the decision?

We must be open to a variety of solutions. Different days for voting, regional primaries, mail-in ballots -- all of these ideas should be considered in this reform process.

I've made no secret of my disappointment with this Congress when it comes to campaign reform. To be perfectly frank, it's hard for me to even understand why there has been so much delay on the most basic reforms -- reforms that already passed the Senate by a broad, bipartisan margin. Our political system is near crisis. Too many people simply don't think we work for them -- that we are too closely tied to the lobbyists and special interests.

That's why we need immediate, bipartisan attention to this issue. And it won't be enough to simply put curbs on the supply of campaign money -- we've got to reduce the demand, by fundamentally restructuring the ways in which campaigns are run and organized. And we've got to replace the mud-slinging with more substantive and serious discussion.

(More)

If we can't convince people that their voices will be heard -- that their vote does indeed make a difference -- then in my opinion, we are virtually begging them to abandon our political process. And that would be a true disaster -- for the Congress, for the country, and for the future of democracy itself.

Now I'm happy to answer any questions the Committee may have.

# # #

CONTACT: Laura Nichols/Dan Sallick (202) 225-0100

The CHAIRMAN. In fact, the Speaker went on a far broader basis, that in terms of talking about political power in a broader sense outside of even the elected political arena and the finances of campaigns to the question of political dollars spent, and that oftentimes the amount of money spent inside the political arena pales in comparison to money spent in other areas. I can assure you, as a member of the new Majority, and through circumstances Chairman of this committee, that we will not move issues that create cynicism among the public on narrow partisan basis. Frankly, I have a number of examples in previous campaign finance legislation that passed the House under the previous Majority, and I am not going to go into them at this point because I don't think it serves a positive purpose.

I think what we ought to do is look to the future, look to new ideas, as you indicated, and frankly seek out a number of sources to comment on what we ought to do. That probably ought not to be the criteria to meld the structure, and that is why I am interested in more details of the Speaker's suggestion of a commission with both Republicans and Democrats, participation by House Senate and the President, which would cast a far broader net than we usually deal with in making those decisions.

Anyone wish to inquire of the Minority Leader? The gentleman from California?

Mr. FAZIO. Thank you, Mr. Chairman.

I know from lots of contact from the Leader that he is religious in his dedication to spending his weekends walking his district. I am sure when he was an alderman in St. Louis it was a smaller district and an easier one to get around than his current congressional district, but I think it is typical of Members who struggle to somehow connect with people, despite the fact that we live in a mass society, that we have so many people to represent and have to rely so much on the media, and on paid advertising to really impact.

You know, our country has seen a decline in the civic culture—the Norman Rockwell painting of the New England town meeting is really not the reality of what we have out in our constituencies these days.

Let me ask you, and this is really a blue sky question, some have advocated that despite the fact that 435 of us are an unwieldy number in the best of circumstances, that we try to shrink our districts even more and somehow get closer in absolute numbers to the real people we represent, because in fact when you are talking 600,000 people, you are an awfully long way from having the kind of contact with them that I know you work so hard to get in any spare moment.

Is there a way we could somehow scale down our districts? Is there a way we could find—you know, we are cutting back on franking and things that we used to think helped make that connection. How do we bridge the gap, the yawning gap, between the public and their elected Representatives, where people think it doesn't matter what I do, including voting or contributing?

Mr. GEPHARDT. Well, I think we are in a day when we have technology available that will allow us to have more contact, more input. We are not far away from the day when people can register

their opinion in a survey through their television or their computer that would give us lots of instant data from people about their opinions on particular issues. We have had, obviously, the advent of television now for a long, long time. I don't think we have ever used it properly in the political sense. We don't have the kind of interactive town hall meetings, the kind of abilities that I think are even there today that we ought to be thinking about doing something about. It could be that the House of Representatives could make available to Members the ability, through technology, to have interactive television town hall meetings, with lots and lots of their constituents on a regular basis while they are doing their duties here in Washington.

I don't think, to answer your question specifically, that we could seriously entertain the idea of increasing the number of representatives. I think that would not be met with a lot of acclaim. I think we have to use the number we have with the number of constituents we have, but increase the use of technology to actually reach people and deal with people.

I feel very strongly that we have got to find a way to get more people to participate in elections. I think increasingly people are beginning to understand that elections have consequences but we make it difficult for them to vote.

I just have to seriously question, why do we insist on having a vote on a workday when, in many, many industrialized democracies, they have gone to Saturday and Sunday voting in order to give people the maximum opportunity to actually go and vote and participate.

Finally—and this is the reason I hope we are in a new day here with campaign reform—it really troubles me that people have such an incorrect vision of what this body is about. It really bothers me, because I know my colleagues, I know how hard you work, I know how serious people here are, I know how well-intentioned people here are.

And to see the perception of the public that this place is absolutely run by special interests and lobbyists really bothers me, because I know it is not true. I also know that if people believe it is true it probably is true; perception becomes reality. If we break the faith of the American people in their representative government, we have really lost something that is very, very valuable and hard to get back.

So we have got to search—none of us has a corner on knowledge here—we have to search for everybody's best judgment and best ideas on how to reconnect the representatives here with their people in any way that that can be done, even to the point of shrinking districts and having the ability to do more door-to-door and more town hall meetings and more individual communication.

The CHAIRMAN. Thank you. I thank the gentleman.

The Chair would invite the Minority Leader, in the most sincere manner, based on the statements he just made, to examine his opening remarks in regard to the way in which things are occurring around here. I have some concern reconciling the two statements.

Does the gentleman from Michigan wish to inquire?

Mr. EHLERS. Thank you, Mr. Chairman.

First of all, I want to reassure the Minority Leader that, thanks to this committee, that technology is now there. First of all, your citizens can watch the Congress on C–SPAN. If they are interested in a particular bill or amendment being discussed, they can get on the computer and actually scan the text of it and then, using E-mail, send in their opinion, all within the space of a half hour while the debate is still in progress.

That, of course, assumes they have a computer, and that means there is some demographic selection going on. But I anticipate within a decade or two everyone will have that capability.

Your other suggestion of interactive town meetings raises an interesting point, however, because that is also available right now. In fact, I just conducted one this morning, not a town meeting with my constituents but a give-and-take meeting with a group of scientists meeting in Ann Arbor. The cost for the satellite time was roughly $1,000 for a half hour, which they paid as part of their conference fee. We can do the same with our constituents, but who pays the $1,000? And if the House pays it, then of course your potential opponents would cry that we have an advantage from our incumbency. If we pay it personally, we have to raise the money somehow.

The question is, where does the money come from?

That gets back to the crux of the matter. I think the problem with connecting with our constituents is not so much a matter of either technology or our will or desire, it is the other issue you raised earlier, 40 percent participation in voting, which is the easiest act of citizenship. The more difficult ones are participating in the process.

With the town meetings I hold in my district, altogether I probably have 500 in attendance over the course of the year, which is less than 1/1,000th of the population of my district. So I think what we have to do is try to address the citizen interest factor in every way possible.

Getting back to specific questions, you mentioned you would like to replace mud slinging with reasonable voices. I certainly agree with you on that.

Do you have any suggestions of any legislation that we could pass that would control negative campaigning without infringing on First Amendment rights? That is something I have struggled with for years.

Mr. GEPHARDT. It is very difficult. I think if you were, in a dramatic way, going to affect the kind of communication that goes on in campaigns, you would have to do something in the Constitution with the First Amendment as it relates to political campaigns. There are a lot of Americans who wouldn't want to even entertain that idea, much less do it. So you have got to be very careful about it.

But I think it is time for a real soul-searching discussion among all of us about what is happening in campaigns and whether 30-second spots are appropriate to a political exercise.

Maybe we will decide, as I suspect we might, that the First Amendment should not be changed in any way for the purpose of political campaigning. But we have to approach that question. We have to have a serious discussion of whether or not we think that

Amendment should be altered with regard to political campaigns because of the extraordinary nature of them, and what is happening in them, and what we might want to have happen in them.

When I say open our minds, I mean that has got to be entertained, at least looked at, by this group and this commission if it happens.

Mr. EHLERS. Thank you.

I personally have never used any negative campaigning, but I have been a victim of it. I think Congress is largely responsible, certainly partly responsible, for the poor reputation we have with the public.

I would also like to pick up just briefly, Mr. Chairman——

The CHAIRMAN. Briefly.

Mr. EHLERS [continuing]. On the comment you made about the public perception. If you look in the history books, it is not much worse now than it was a hundred years ago.

Mr. GEPHARDT. I don't take a lot of heart from that.

Mr. EHLERS. I agree, but I suspect——

The CHAIRMAN. Or 200.

Mr. EHLERS. Like the Lord said, we will always have the poor with us, I think politically we will always have the skeptics with us.

Mr. HOYER. Would the gentleman yield just a moment?

Mr. EHLERS. Just a second. Mr. Fazio used the term—"and I know he is religious"—I know you are a deeply religious person. I don't think you are influenced by the contributions you receive. I am not. Yet the public somehow perceives we are. The question is trying to discern what is really the problem here. Is this a problem of perception, or is it a problem that is real, as you implied in your opening comments? I happen to think not.

I will be pleased to yield.

Mr. HOYER. I think the issue is today not that the opinions that are expressed about the Congress or about Presidents are necessarily more harsh. Certainly you can read descriptions of Thomas Jefferson that all of us would now be reviled by because we revere him.

However, the very marked change is the powerful projection of those negative views through television which has geometrically increased the disquietude in the American public and the level of animus.

It is not that the views have changed for those who know, who write the journals and all that sort of stuff, but what has happened is, the public has been inundated.

I agree with the gentleman from Michigan, and I have said this in our committee before in years past, we all spend a lot of money to denigrate the institution and the participants in the institution on an annual basis, and I think that is the difference. It is not that the views have changed, they are projected more widely and more powerfully.

Mr. GEPHARDT. Can I take a second to chime in on that? This is an important point.

The CHAIRMAN. Sure.

Mr. GEPHARDT. I think what we have to begin to look at is the power of television in the whole business of public persuasion. I un-

derstand the Speaker was talking about that here today when he was talking about the ability of groups to influence public opinion outside of the election process just on issues, and to make an impact on legislation ultimately by impacting public opinion through the use of television.

I just throw this out. I may be wrong.

I don't think there has ever been an instrument of public persuasion that is nearly, nearly as powerful as television and, in particular, 30-second spots. If it weren't a powerful tool, the great corporations of our society would not spend the amounts of money they spend using it to drive public opinion in particular ways. We need to really examine its role and what it has done to the political atmosphere.

The CHAIRMAN. Just let me add that everything that has been said is, I think, correct, and it is focused through the magnifying lens of single-issue politics, which intensifies all the aspects we have been talking about.

Does the gentleman from Arizona wish to inquire?

Mr. PASTOR. Thank you, Mr. Chairman.

I thank the Minority Leader for sharing his thoughts with me.

As an observer in different countries during the elections, I have seen where they have had limited time for campaigning, but one of the things I have also seen is that they stop campaigning a few days before the election, like a cooling off period, so the concentration is to get out the vote and get people to get ready to vote. So that may be something that we may have an interest in.

I agree with you, we make it very hard for voters to participate, and I would hope that we look at not only the mailed-in ballots but also the whole question of registration, and make it easier for people to register and vote, beyond the motor-voter idea but maybe on-site registration. I think those are things we need to look—at how we make it easier for people to vote.

One of the themes that the Speaker had this morning—and I would like to have your comments and your thoughts—also dealt with how independent groups now are the more threatening factor because they push their idea or their issue through the media or through volunteers. Somehow we connect that with the demise of political parties. I saw this morning as I was walking by one of the bookstores, a cover story in one of the national magazines that deals with the demise of the Democratic Party.

What would you do to strengthen the participation of political parties so that we may again use that as a vehicle for citizen participation and for the recruiting of potential candidates?

Mr. GEPHARDT. Let me say that I think this great diverse democracy has been greatly helped through history—and we are now the oldest democracy in the world—by having a large tent but a small number of political parties.

What I am afraid is happening because of all the phenomena we are talking about today is we are seeing a proliferation of parties and I think it is going to continue unless we can bring about, as I have said, dramatic campaign reform.

If you look across the history of other democracies, in many of them there has been a real atomization of parties, special interest parties, parties representing very narrow groups within the society.

That is beginning to happen in this society. I think it will continue unless we can bring about very effective, dramatic campaign reform.

That is not the only thing, we have got other problems that are causing this, but this is part of the reason this is happening.

So one of the things I think we have to look at in campaign reform specifically, to answer your question, is that we cannot starve parties of the ability, the financial ability, to operate as parties: their ability to register voters, their ability to get voters to vote, their ability to help campaigns be mounted, their ability to go out and find good people to run for political office.

If we are going to have successful, large-tent political parties that are effective in what they are doing, they have got to have the resources to be effective in doing it. So in writing campaign reform, we don't want to make it impossible for them to raise the resources they need to run their campaigns and to be an effective political unit.

The other thing, when you only have two parties, what I think we benefit from is you get public servants who are willing, because they have had help from that party to get elected, to represent the broadest view. They are then not beholden to this special interest or that special interest and another special interest to get elected. They can rely on the party to help them get elected, which has the broader view of the good of the whole society.

I think that is an extremely important reason to keep the large political parties that we have had in mind as we go through campaign reform.

The CHAIRMAN. I will tell the Minority Leader, who was not here for my opening remarks, that we are planning to hold a series of hearings focusing on funds availability to the candidate. One of the hearings will clearly be on the role of political parties. Perhaps the 1970s legislation defined political parties as even less than PACs in some ways. We have to go back historically and take a look.

I appreciate your comments on political parties.

Does the gentleman from Maryland wish to get in on his own time?

Mr. HOYER. Mr. Chairman, I just wanted to make an observation, because the Speaker brought up Broder's book with reference to decline of parties. Of course in Broder's book he spoke of the consequences of that, which, in my opinion, was largely accelerated by the 1974 election and, frankly, by campaign finance reform.

Let me make an observation. GOPAC is very controversial obviously, but GOPAC was used as a unifying force by the Speaker, where he reached out to a lot of people of like philosophical mind and objective and created a cohesion that he now displays as the Speaker. Historically, parties did that.

With the limitation on parties' ability to fund the candidates, we may want to think about going the other way in campaign finance reform of $10,000. That is for most of us an inconsequential sum, making parties relatively irrelevant. They can give other in-kind services, but as we have diminished parties' ability to impact on elections, it is not surprising that we have seen a disintegration, which the public has seen as gridlock and the lack of consensus and the inability of leaders to lead.

In fact, GOPAC to some degree replaced the party. In fact, leadership PACs to some degree attempt to give leaders—this is in State legislatures who are doing it, at the Federal level—attempt to give leaders the ability to impact on policy by promoting candidates who shared their views and will cooperate with them in pursuing policies. People obviously respond to that. That is bad, because what it does is, it centralizes power.

Since 1974 there has been, and before that, a great suspicion of centralized power, but we have paid a price for the disintegration of centralization. Frankly, I am an admirer to some degree of the Speaker's centralization to impact policy. While I may disagree with many of the policies he tries to promote through that mechanism, it is, in my opinion, a problem that our party experienced in the 1974 post period where we diminished the Speaker's power and diminished leadership power and enhanced, frankly, committee power. But we had a lot of power centers and were, in some respects, through campaign finance mechanisms but other mechanisms as well, unable to focus on policy promotion.

Mr. GEPHARDT. Let me just make an idea here: that is, always, throughout the history of our country, we have run somewhere between chaos and very centralized power, almost a totalitarian system. We are kind of looking at the green grass on the other side of the fence.

The great genius of this system that we have, I think, is that it is somewhere between what is a more parliamentary system, with a more centralized power and something that really requires consensus building.

I happen to believe that while I get terribly frustrated, as we all do, with the consensus building that has to go on around here, that it is the only way a diverse country like this can really operate. People really do have to feel like they have an oar in the water and they have a say.

But when you go so far toward consensus that you have chaos, and you have no ability to make decisions and move the society, then you have gone too far in that direction. I think we have achieved that golden mean.

One of the ways we have done that is through these two broad-tent parties, and I think that if we go towards very narrow parties and lots of them, we are going to pay a very heavy price in terms of our ability to get anything done in this society.

The CHAIRMAN. Last to inquire, the gentlewoman from Washington.

Ms. DUNN. I thank the Chairman.

I just want to bring a note of irony to our discussion today. First of all, I want to commend everybody on the discussion. I think we are finally getting into this topic, and it is very interesting for me to sit here and to hear debate that will be educational for anybody who takes the time to listen to C–SPAN on this issue.

Mr. Chairman, I want to commend you for having these open hearings. I will simply tell you that two and a half years ago when I came as a new freshman to this Congress, I wanted to be on this committee because I was a former party Chairman, and I brought some expertise to the subcommittee that I then sat on, which was the Elections Subcommittee.

I will remind the Chairman, however, that all the work of that committee on campaign finance reform was brought directly by the Majority to our full Committee, with very little input by any of us, so very little opportunity for folks watching C–SPAN who wanted to understand thoroughly the issues to really have that opportunity. So I think it is great that we are holding these hearings now. I want to thank you for that great chance to get involved.

I enjoyed Mr. Pastor's question of the Leader, and, Mr. Leader, I enjoyed your answer. I think the discussion that has gone on about parties and the need to strengthen them is very important. Regarding Mr. Hoyer's contribution to that discussion—I was a former party Chairman for 11 years. I shared the frustrations that all of you have been through in trying to find candidates to run for office and to try to get people interested in voting. It is just a terribly dissatisfying feeling, in trying to raise money to help candidates, get the word out, send the mailings out, all the things we have had to do in our various political backgrounds.

So I am very sensitive to that, and I am very eager to find the answer as to how we strengthen the two-party system in the United States because, I agree with you, Leader, that is what we have to do.

I am now a member of a different committee, the Ways and Means Committee, and my question to you is: Do you see ways in which we could use the Tax Code to encourage participation by individuals in political campaigns? For example, what are your thoughts on incentives like giving a tax credit to a contributor who is willing to give $100 or less?

Mr. GEPHARDT. Well, we had that at one time, as you know, in the Code, and I thought it was a sensible thing to have.

Obviously, as with all issues, everything is complicated in the world, so I am, along with Mr. Armey and others, now advocating a flat tax, or a flatter tax, that has no deductions and no credits. So we all wind up meeting ourselves coming through the door on issues like this, and I have to put in that disclaimer.

But if we can find a way that is sensible, that meets our other objectives, to encourage ordinary citizens to become involved in the political process with small contributions and to be part of the system, I think it is a very, very, very positive thing to do.

Part of the reason I think Americans have not been particularly political or ideological or interested is, frankly, our country has been a huge success, things have gone well, the economy has been growing, people feel like they are okay and they don't need the political system. It is kind of, "Leave me alone and I'll be fine."

I think as the economy has contracted for a lot of middle-income Americans over the past 25 years, I think people have gotten more politically charged and interested and maybe in a way that is good, but it has to be channeled and they have got to find ways that they feel they can be effective. One way is to contribute and participate in local campaigns, campaigns for people for Congress, for city council, for mayor, whatever.

Obviously, if we can encourage those small contributions that gets them involved, people tend to follow their money. They put money in a campaign, then they do other things in a campaign, and that is very positive.

Ms. DUNN. Thank you.

The CHAIRMAN. Once again, I want to thank the Minority Leader for his willingness to share his ideas and to join with the Speaker as the opening witnesses for what hopefully, this Chairman believes, will be a series of very positive discussions about the options available to us. Whether or not we are able to form a commission with the President's participation, I want to indicate that, as Chairman of this committee, my goal is an open examination of real issues leading to real solutions. I want to thank the gentleman for participation.

Mr. GEPHARDT. I thank the gentleman very much. I look forward to working with all of you in the next months.

Thank you.

The CHAIRMAN. Thank you again.

It is now time to move to the panels consisting of Members who have introduced legislation in the general area of campaign finance reform and, more specifically, dealing with PACs.

I believe with us is—I see the gentleman from South Carolina, Mr. Inglis—come on up—and the gentleman from Indiana, Mr. Jacobs; Mr. Portman; the gentleman from Pennsylvania, Mr. Kanjorski. I believe Porter Goss may not be able to join with us because he is, ironically, in the Rules Committee engaged with activity on gift reform since that was transferred from the Committee on Standards of Official Conduct to the Rules Committee. Our other Members are on the way.

[The statement of Mr. Goss follows:]

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Testimony on Political Action Committees in Federal Elections

Before the Committee on House Oversight

November 2, 1995

Porter J. Goss

Mr. Chairman: I think we all agree that Congress is long overdue for meaningful campaign election reform. I commend the committee for taking this first step toward that end and I appreciate the opportunity to testify before the committee on the PAC provision of my bill, H.R. 732.

One of the most frequent complaints that I hear from my constituents in Southwest Florida is that lobbying groups are much too powerful and, in some cases, too influential with Members of Congress. In general, I believe members are honest, sincere and able to separate their campaign contacts from their official responsibilities. However, it's clear that the public perceives undue influence by lobbyists. One way to alleviate the appearance of undue influence by these organizations is to reduce the amount of money Political Action Committees can contribute to political campaigns.

During the 103rd and again in this Congress, I introduced a campaign reform bill to limit PAC contributions to $1,000, which would make the limit identical to the one for individual contributions. Although my preference is to eliminate PAC contributions altogether, it seems to me that if PACs and individuals are held to the same standards, we could reduce the problem of unequal influence.

Another way to reduce the influence of Washington lobbyists is to limit the geographic area from which contributions may be made. I have always believed that most contributions should come from within the state of the candidate. H.R. 732 requires that, 90% of all contributions are raised within the state and that 50% come from within the district the candidate seeks to represent.

In my political campaigns, I have pursued a policy of not soliciting contributions from PACs. Also, I return unsolicited contributions from PACs that may be lobbying on "hot button" issues with current legislative implications. In the last election cycle I did not have an opponent and I returned all unsolicited PAC contributions received after the filing deadline had passed. This is a personal choice that I make in running my campaigns. I realize that it may not work for everyone.

The cost of running a campaign has soared and elections have become "big business" in many regions. Unfortunately, the high costs of campaigning can discourage some fine candidates who feel they cannot compete in raising money. It seems to me that if we level the playing field by diminishing the weight of PAC contributions, we might open the process to more and better candidates. We certainly would succeed in restoring credibility to the election process.

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Our schedule will be to proceed through this panel and the second panel. However, I am informed there may be a vote momentarily on the Floor, so we will begin this panel; In all likelihood, since the panel consists of all Members, we will recess for the purpose of voting, and then come back and proceed through this panel and then on to the next panel.

I hope we could have each of the witnesses' testimony and then have the panel interact between themselves, too, if that is possible.

I would tell the Members, as I just indicated to the gentleman from Maryland, if it would be possible to have your testimony and if you are able to stay so that we can carry out the discussion with you, it would be helpful. Obviously, given your busy schedules, if you feel that you must leave, we understand.

Let's begin with the gentleman from Indiana, Mr. Jacobs.

STATEMENT OF HON. ANDY JACOBS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF INDIANA

Mr. JACOBS. Thank you, Mr. Chairman.

Under Federal statute it is now not permissible for any private interest to finance any part of the operation of a congressional office. That is a fairly recent statute. I think it was about the mid-1970s that that happened.

My view is that the selection process should be raised to the sanctity of the serving process. In Robert Bolt's play, "A Man For All Seasons," Thomas More is emerging from court as a judge, and someone tenders a basket of apples to him, and he declines and replies, "To sweeten my judgment?"and declines the apples.

I am a former police officer. If anybody had given anything of value to me in the discharge of my duties, the result would have been rather simple; it would have been, "Good afternoon, Sheriff; good morning, Judge; and good evening, Warden." That would be about all there was to it.

I think the Congress of the United States deserves that dignity, that objectivity.

I hear it said that contributions don't influence people. I am not prepared to argue whether they do or not, but I am prepared to argue this: If you are into bench pressing, there are two ways you can do it, you can do it with dead-weighting, or in latter days they have invented hydraulic mechanisms, and the harder you push on the mechanism, the more weight you are pushing away. You can deceive yourself. If you do it at 7:00 o'clock in the morning, then it might really be 180 pounds, but if you use the same mechanism at 5:00 p.m., you might think you are doing 180 pounds but in fact be doing about 130. Very subjective, and subconscious.

So I think it is with PAC contributions. Do they influence you or do they not? Or do you even know, or do I know subconsciously whether they influence me?

Now there is one way you can know that they don't influence you, and that is if there isn't any. That way, not only you—that should be important—but the public can know that they are not influencing you because they don't take place.

Now, I don't think you can do this in a vacuum. I am among those who believe the British system is the best, and that is what I have proposed. Outlaw private contributions altogether, the same

as we do in the operation of the congressional offices. The richest rancher is not going to buy the sheriff his gun.

I don't think that the scheme should involve one nickel to any campaign committee. I think we should recognize that the primary legitimate function of a campaign is to communicate ideas.

I think that the public would be buying itself two things: assurance that money is not influencing or sweetening the judgment of public officials, and, second, the opportunity to hear all candidates, splinter parties or whatever, independent candidates, whoever achieves ballot position by the requisite procedures of the several States. You have the opportunity to hear ideas you never would hear otherwise because the lobbyists no longer would be the gate keepers of the television camera. And you might be surprised.

Our Minority Leader, Mr. Gephardt, spoke about the importance of maintaining the two parties. Well, I am in one of the parties, and Jennifer is in the other one, and I expect we would both be sympathetic with that idea, but the fact is, a splinter party may well become the majority party if it were ever heard from. The better mousetrap, the better idea.

The precedent, of course, for public financing of campaigns—which, by the way, lobbyists loathe; they were the very first ones to give the argument, why should I pay? Why should I pay to facility the expression of an idea with which I do not agree? The public does that every day with Members of Congress in the bully pulpit at the White House.

George Burns and Gracie Allen used to have an old show, and they had the governor of California on one night. His name was Goodwin Knight, and his nickname was Goodie Knight. Gracie, in her penetrating, Socratic method, said to the governor, "Now, governor, are you a Democrat or a Republican?" and he said, "Well, I am a Republican." "Well, now," she said, "do the Democrats have to pay taxes to help pay your salary?" and he said, "Well, yes." She said, "Now, is that fair?"

That is my answer to whether it is fair for the public to buy the opportunity to hear all the candidates in equal measure. My scheme would do nothing more than that. The taxpayers would buy the blocks of television time and radio and space in newspapers, and each candidate who is on the ballot in equal measure could go in and say what, if anything, he or she stands for during his or her 10 or 15 minutes that night.

I was about to say, and I will conclude by saying, the precedent for this is the New England town meeting. The taxpayers paid for the means of communication, which was the New England town hall. Now, it is pretty hard to crowd half a million or more people into one room anymore, probably always was something of a trick, but unless you believe in angels dancing on the head of a pin, that sort of thing, it is possible, but it is what they used to have years ago, the town meeting of the air; it was over the radio. Now we can have town meetings of that kind.

I think, as my mother would say, that the world would go around much faster if we let the lobbyists come in and use their arguments, and nothing more, to influence legislation. That is precisely what they ought to do.

The year I was elected——

The CHAIRMAN. The gentleman has concluded.

Mr. JACOBS. I am concluding.

The year I was elected to the committee on which your Chairman serves and on which my good friend serves, the Ways and Means Committee, I was elected in January by the Democratic Caucus, and about five minutes later the phone started ringing off the hook. Every PAC in town wanted to give me money. The election was over, I didn't have any debt, but they still wanted to give me money.

One guy came in about two years later, and he was representing a big corporation, and he said in the omnibus tax bill an unintended consequence was happening to his corporation. Before he said that, he unsheathed a check for $5,000 to my committee, and I said "No, I don't take PAC contributions."

And I asked him, "What were you here for really?" He told me the problem. I said, "I think you are right. I think it's an unintended side swipe at your corporation, and we will have technical corrections in five weeks, and I'll offer the amendment."

I did, and it was adopted immediately, a matter of course. I don't think his feet touched the floor when he left the office. The very idea that to gain elemental justice didn't have to cost his company $5,000 kind of knocked him out.

That is the kind of world I think we learned in high school civics, and that is the kind of world we can achieve if we get together on it.

Thank you.

The CHAIRMAN. The gentleman from Pennsylvania.

STATEMENT OF HON. PAUL E. KANJORSKI, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. KANJORSKI. Thank you, Mr. Chairman.

I like Mr. Jacobs' world. I think it is slightly idyllic with regard to some of the questions it raises and would result in the delay of passage of legislation in this area. I think it is very important we put a bill together that is acceptable to both parties.

I am here because over the last five years in every Congress I have introduced a campaign finance reform bill, H.R. 296. I would appreciate it if the Members would look at it. It was not written from a partisan perspective, and, frankly, it is quite bipartisan.

I think we have a problem with PACs. I think they have to be limited, but they do serve as a way of raising small amounts of money from less affluent people who want to give in a very efficient fashion.

The experience of raising money from groups that PACs generally represent, whether labor unions, industries, as you know, is overwhelmingly expensive, and most often we are supporting the restaurant industry or the catering industry, and a large portion of the funds that we do raise actually end up being costs.

So PACs in some way, if controlled, limited, and understood, and with full disclosure, have some relevant importance. But under my bill I reduce them by 60 percent to a maximum of $2,000. The major part of my bill is to encourage local contributions.

It was interesting, I listened to Ms. Dunn's comment on tax credits. I believe we should have a credit for in-State contributions, a

maximum of $200 and a direct match for that amount up to a total maximum of $300,000. You want to put a limit on it.

My bill includes a checkoff to provide matching funds to match the funds contributed by local people in small amounts.

I would limit the use of personal wealth to $100,000. No one should have a need in our society to hunt and market a seat in Congress, and we now see this in both parties.

We have an uncanny number of individuals in this country who have not come through the political process, who in middle age, after great, successful business careers, merely look around the country and identified 1 of 20 or so districts, and they have $1 million or $2 million they want to spend and become a Member of the United States Congress.

I don't think they have gone through the undergraduate school or graduate school of politics, and it does count, because they tend to arrive with a very simplistic approach. I am glad the former Chairman of a state legislative committee for the State of Washington is now a Member of Congress. That background comes with a wealth of experience. All of us know many of our colleagues come with that kind of experience.

On the other hand, I also speak from the perspective of a former Republican, so I am very bipartisan. I moved into the Democratic Party when portions of the Rockefeller-Scranton Republican Party no larger existed, when oxygen was no longer attainable for them in the fifties and in the early sixties, and I saw the Republican Party move a little too far to the right from where I was philosophically, and so I find myself now in the Democratic Party.

I hasten to say, I am the first Democrat in my family in more than 120 years, so it is very difficult to adjust to the extreme left of my current party. I sometimes find myself wishing we had a multiple-party system.

But I agree with Mr. Gephardt that our system is structured in a two-party mode and if we change we have to merely change identifications of people to bring us within the party.

But in respect of having changed parties and run for office, I come as a virgin to the Congress. I was never elected to a public office before. I ran against an incumbent in the Democratic Party in 1984, if you will, defeated him, one of two in the entire decade that was defeated, went on to the General Election of 1984 which was dominated by the Reagan landslide, and succeeded in winning nonetheless along with a very small class of new Democratic members.

Immediately upon my swearing into the office of Congressman, my 1986 Republican opponent had already raised $400,000 and went on to finance either the second or third most expensive campaign in the United States, outspending me two to one, with somewhere in the neighborhood of $1.2 to $1.4 million in his campaign fund.

So immediately upon my election to Congress I had to raise money in a very fast way, which was very difficult; I was not, and am not, used to it. I know the experiences of the lady of the night, and I don't think politicians should be attuned to that nor is that the best experience. Those of us fortunate enough to gain the con-

fidence of our constituents know what you have to do to come to Congress. We have to find a middle ground.

My legislation was worked on with Dr. Norman Ornstein of the American Enterprise Institute. It covers a lot of issues that we have raised in our system. We worked closely to tailor those issues. I think you will find it both balanced, allowing for needs of the Democratic Party and our center city problems to raise funds, it works to the benefit of the Republican Party in that it encourages participation, but, most of all, it works to the benefit of challengers by allowing them to get in and to address the issues that Mr. Jacobs referred to.

The most crying problem facing our country is the fact if we don't get able people to run for Congress or other elected offices, who are willing to talk about issues and substance rather than simplicity, we are going to lose more respect in the public than the little the Congress has now, and I don't know whether that is possible, but I suspect we may accomplish it.

I would urge my colleagues on the committee to look at H.R. 296. It is bipartisan. I think it could be passed. People with open minds could, in a bipartisan way, say this is a tool we could use in 1995 and 1996 to make some of the corrections which we all recognize are needed.

Thank you.

[The statement of Mr. Kanjorski follows:]

Statement of

Hon. Paul E. Kanjorski

of Pennsylvania

on H.R. 296

The House of Representatives Election Campaign Reform Act of 1995

Committee on House Oversight

November 2, 1995

Mr. Chairman, members of the Committee, I welcome this opportunity to testify today on my bill, H.R. 296, the House of Representatives Election Campaign Reform Act of 1995. H.R. 296, which I sponsored on the first day of this Congress, is virtually identical to campaign finance reform legislation I originally drafted and introduced more than five years ago.

I believe as strongly today as I did in 1990 when I first authored campaign finance reform legislation, that we cannot restore the confidence of the American people in their government unless we enact campaign finance reform legislation. **In order to have a government in Abraham Lincoln's words, "*of the people, by the people, and for the people*," we must eliminate the pernicious effect of enormous sums of money on our political system.**

We cannot allow the United States Congress to become the "Millionaires' March on Washington."

I was encouraged earlier this year when President Clinton and Speaker Gingrich, in their famous handshake in Claremont, New Hampshire, agreed to make consideration of campaign finance reform a priority for this Congress. I know that campaign finance reform is a high priority for the President. I regret that it has taken so long for the House to even schedule hearings on this important topic.

There are two overriding concerns which should guide our actions in this area: **1.** Public officials must be more concerned with the policy implications of legislation, than on their ability to raise campaign funds, and **2.** No individual or group should be able to buy an election.

Mr. Chairman, I come to this issue from a somewhat unique perspective. I am one of a relatively small number of members who grew up in one party, and later became a member of the other party. I was raised as a Republican and served in the 83rd Congress as a Republican page, and I worked on several presidential, gubernatorial, congressional, and state and local Republican campaigns in the 1950's and early 1960's. As the Republican party moved to the extreme right in

the mid 1960's and deserted those of us in the moderate Rockefeller-Scranton wing of the party, I became a Democrat, and was elected to Congress as a Democrat in 1984.

My election in 1984 was also an unusual event. I defeated an incumbent Congressman in a primary, a rare occurrence, and I was one of a mere handful of new Democrats elected to the House during the 1984 Reagan landslide.

Before I was even sworn-in for my first term in January 1985, my 1986 opponent was campaigning and raising hundreds of thousands of dollars in campaign contributions. In the 1986 campaign I was outspent nearly two-to-one by an opponent who raised and spent well over a million dollars in a district where media is relatively inexpensive and where no one had ever spent more than a couple of hundred thousand dollars in a campaign. My race turned out to be one of the two or three most expensive races in the country in 1986. Despite being massively outspent, I still managed to win with more than 70% of the vote.

In short, Mr. Chairman, I know what it is like to be an underdog. I know what it is like to be outspent. I know how hard it is for challengers to raise campaign funds, and I know how unfair it is when one candidate has economic resources which are not available to his opponent.

H.R. 296 is an effort to bridge the gap between the parties over campaign finance reform, by enacting meaningful, but fair and balanced, reforms. It encourages honest competition and will help to further the goal of a government, "*of the people, by the people, and for the people*."

This comprehensive campaign finance reform bill addresses all of the most pressing issues in campaign finance reform: from the growth of Political Action Committees (PACs) and the declining influence of small contributions from individuals, to independent expenditures, the unfair advantages of candidates who are personally wealthy, and PAC's controlled by elected officials.

H.R. 296 also contains stiff **criminal** penalties for individuals who violate federal election laws.

Many of the provisions contained in this legislation are based on proposals originally recommended by Dr. Norman J. Ornstein, of the American Enterprise Institute for Public Policy Research. Dr. Ornstein is a nationally known and well respected scholar of the American political and Constitutional systems. He is held in high regard by members of both parties, which is why his ideas may help us move beyond our past partisan differences.

The cornerstone of H.R. 296 is the significant reduction in the amount of money Political Action Committees (PACs) may contribute to candidates and the strong new incentives provided to encourage small contributions from in-state contributors. The bill slashes the maximum contribution a PAC can make to a candidate from the current $5,000 to no more than $2,000 per election cycle. That is a 60% reduction.

The bill provides both a tax credit and a federal matching payment for individual contributions of $200 or less to qualifying candidates who are running for Congress in the contributor's home state.

In order to qualify for matching funds, a candidate must agree not to spend more than $100,000 of his own money on the campaign, and must raise at least $25,000 in contributions of $200 or less from in-state residents. A voluntary income tax checkoff, similar to the one already used to finance Presidential elections, is created to provide the federal matching funds.

The bill also provides reduced broadcast rates for commercials which are at least one minute long, thus discouraging 30-second "sound bite" commercials. It provides disincentives to discourage so-called "independent" expenditures, and it penalizes candidates who spend large sums of their personal money on their campaigns.

With your permission, Mr. Chairman, I would like to include in the record of this hearing, a full section-by-section analysis of my bill, H.R. 296.

Mr. Chairman, I know there may be a tendency on the part of some to blame all the ills of our current system on Political Action Committees. They are convenient scapegoats, but they are nowhere near as responsible for our current problems as the disparity in resources between incumbents and challengers, and the amount of money which must be raised and spent in many races just to be competitive. The elections of 1994 demonstrate dramatically that all the PAC money in the world cannot save a candidate if the public does not agree with his message.

We must also remember that PACs were created in the early 1970's as part of a reform to cure what was then an even larger problem, the fact that special interest groups could give virtually unlimited sums of money without anyone knowing who was making the contribution. PACs were created to increase disclosure and accountability, so that everyone would know where campaign funds were coming from. In this respect they have succeeded and have increased both disclosure and accountability. Sunshine and full disclosure are the most important tools we can provide voters so that they can make informed choices.

Some people contend that if we simply do away with PACs all of our campaign finance problems will disappear. That just is not true. It is a simplistic view of the world. It does not take into account the advantages that wealthy candidates have over candidates of modest means. It will not make an average citizen a competitive candidate. The sad truth, Mr. Chairman, is that even though PAC limits have not changed in 20 years (and have thus declined in real terms) campaign expenditures have continued to escalate, and expenditures which were extraordinary as recently as 1986, are nearly commonplace today.

Changes in federal law relating to PAC's are necessary, but alone they are not sufficient to reform our campaign finance system. ***PAC reform without more comprehensive financing reform will not work.*** **It would deal with the symptom, but not the underlying disease, which would eventually re-emerge and kill the patient.**

In conclusion, Mr. Chairman, I am glad the majority party has finally agreed to hold hearings on this topic, but I urge you to enact a comprehensive solution to our campaign finance problems, as I have suggested in H.R. 296, and not a narrow and inefficient solution which will inevitably be ineffective.

SECTION-BY-SECTION ANALYSIS OF HON. PAUL KANJORSKI'S

HOUSE OF REPRESENTATIVES ELECTION CAMPAIGN REFORM ACT OF 1995

H.R. 296

SECTION 1. SHORT TITLE.

The Act may be cited as the "House of Representatives Election Campaign Reform Act of 1995".

SECTION 2. LIMITATION ON CONTRIBUTIONS TO HOUSE OF REPRESENTATIVES CANDIDATES BY POLITICAL ACTION COMMITTEES.

Reduces from $5,000 to $2,000 the maximum contribution a political action committee may make to a candidate per election.

SECTION 3. CREDIT FOR CONTRIBUTIONS TO CONGRESSIONAL CAMPAIGNS.

Provides a 100% tax credit for the first $200 (or $400 in the case of a joint tax return) in personal contributions an individual makes to a House candidate running from the same state.

SECTION 4. DESIGNATION OF INCOME TAX PAYMENTS TO THE HOUSE OF REPRESENTATIVES CAMPAIGN TRUST FUND.

Provides for a $2 tax credit check-off on individual federal tax returns to be paid to the "House of Representatives Campaign Trust Fund.

SECTION 5. ESTABLISHMENT OF THE HOUSE OF REPRESENTATIVES CAMPAIGN TRUST FUND.

Creates a House of Representatives Campaign Trust Fund under the Secretary of the Treasury to receive funds derived from the $2 check-off on individual tax returns and authorizes expenditures from the trust fund to certified candidates who have raised not less than $25,000 in contributions of $200 or less from individual contributors from their states.

SECTION. 6. AMENDMENT TO THE FEDERAL ELECTION CAMPAIGN ACT OF 1971 RELATING TO REPORTING OF INDIVIDUAL RESIDENT CONTRIBUTIONS IN ELECTIONS FOR THE OFFICE OF REPRESENTATIVE.

Requires House candidates to report to the FEC when they have raised more than $25,000 in contributions of $200 or less from individuals residing in their states and requires the FEC to certify this to the Secretary of the Treasury.

SECTION 7. AMENDMENT TO THE FEDERAL ELECTION CAMPAIGN ACT OF 1971 RELATING TO MATCHING PAYMENTS FROM THE HOUSE OF REPRESENTATIVES CAMPAIGN TRUST FUND.

(a) Entitles House candidates to matching funds from the trust fund for the first $200 in contributions from individuals who reside in the state.

(b) Limits maximum total aggregate matching payments to $300,000.

(c) In order to receive the matching payments, House candidates are required to certify, under penalty of perjury, that neither they, nor their family, shall furnish more than $100,000 in personal funds or loans for the campaign.

Establishes penalties of up to $25,000 in fines and/or 5 years in prison for violations of any certification that a candidate will not exceed $100,000 in personal funds.

(d) Provides that if a candidate for the House refuses to make a certification that he/she will not spend over $100,000 in personal funds, that candidate's opponents may receive matching funds for up to $1,000 in contributions from individuals regardless of their state of residence.

(e) Allows opponents of a House candidate, who violates a certification to limit personal spending to $100,000, to receive from the trust fund payments equal to the amount of personal funds contributed by the violating candidate in excess of $100,000.

(f) Permits certified House candidates who are the target of independent expenditures which exceed $10,000 to receive from the trust fund an amount equal to 300% of the amount of the independent expenditure. Persons found to have willfully or intentionally sought to subvert the intent of subsection may be fined up to $25,000 and/or imprisoned for up to 5 years.

(g) Requires the repayment to the trust fund of a portion of any excess campaign funds after the election in an amount equal to the pro rata share that trust fund payments accounted for of the candidate's total aggregated receipts from all sources for the election. Repayments to the trust fund shall not exceed the

total amount received from the trust fund.

(h) Requires the FEC to issue regulations to biennially index the provisions of subsection (a).

SECTION 8. AMENDMENTS TO SECTION 304 OF THE FEDERAL ELECTION CAMPAIGN ACT OF 1971 WITH RESPECT TO INDEPENDENT EXPENDITURES.

Requires the reporting to the FEC, within 24 hours, of any independent expenditure in a House race which exceed $10,000, and a statement as to which candidate the independent expenditures are intended to help or hurt. Requires the FEC to notify each candidate of the independent expenditures within 24 hours.

SECTION 9. AMENDMENT RELATING TO BROADCAST MEDIA RATES AND DISCLOSURES.

(a) Requires broadcast stations to offer their lowest rates, to House qualifying candidates who have agreed to limit personal spending to $100,000, for commercials which are 1 to 5 minutes in length.

(b) Requires the inclusion of the statement "This candidate has not agreed to abide by the spending limits for this Congressional election campaign set forth in the Federal Election Campaign Act" in any broadcast or print advertisements of House candidates who refuse to agree to limit personal spending to $100,000.

SECTION 10. PENALTIES.

Makes it unlawful to furnish false information to, or to withhold information from, the FEC, punishable by up to $10,000 in fines and/or up to 5 years in prison.

SECTION 11. RESTRICTIONS ON CONTROL OF CERTAIN TYPES OF POLITICAL COMMITTEES BY CANDIDATES.

Prohibits House candidates from establishing, maintaining, or controlling a political committee other than an authorized committee of the candidate.

SECTION 12. AUTHORIZATION OF APPROPRIATIONS.

Authorizes such sums as are necessary to carry out the Act.

SECTION 13. EFFECTIVE DATE.

Provides for the provisions of the Act to take effect after December 31, 1994.

SECTION 14. SEVERABILITY.

If any provision of the Act is held to be invalid, this will not affect the other provisions of the Act.

The CHAIRMAN. Thank you.
The gentleman from South Carolina, Mr. Inglis.

STATEMENT OF HON. BOB INGLIS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF SOUTH CAROLINA

Mr. INGLIS. Thank you, Mr. Chairman, for this opportunity. I, too, congratulate you on holding these hearings. I think it is a great beginning.

I was interested in the discussion earlier that the committee had with the Minority Leader, very interesting discussion I think, very helpful in identifying for me two areas that need some help. One is the fact that we have got this pervasive impact of television on the process, and the other is the impact of single-issue orientations in this process. It seems to me both of those can be addressed by simply eliminating political action committees. Let me explain why I think both of those we will get to if we simply eliminate the PACs.

I should tell you, to begin with, that I ran for Congress in 1992 the first time, having never run for office before, challenged an incumbent in a situation where nobody expected us to win. I had sort of an unusual approach, I believe, in term limits, and therefore I will limit myself. I believe we should abolish PACs. Therefore, I refuse to take any PAC money.

At one eventful press conference in my campaign, I hung this sign on the podium, and I said, "If you send me to Washington, I'll hang this sign on the door in Washington." It says, "Notice to all PACs: Remember, you didn't give me a dime, and I don't owe you a thing."

It has had a way of warding off evil spirits now that I am here. They seem not to come around too much. It works fairly well, I think.

The exciting thing I think that we—the opportunity we have in abolishing PACs is to get at this thing of this pervasive impact of television, and where does it come from, of course, but the enormous sums that we raised and spend on campaigns.

The reason we must raise those funds is the opponents on television. If we sort of put the pin in the balloon and out comes the money from the PACs, I believe there would be less television, less purchases of those 30-second attack adds, and that will help significantly.

The other part of this is that single-issue orientation. I think there are several critical differences between PAC giving and individual giving. Individuals, unlike PACs, give for a variety of reasons. PACs give for a very focused agenda. They are after something in particular for their little industry or their particular need. They give without much emotion. They give solely in order to advance that very narrow agenda.

Usually when we talk in terms of single-issue orientations, we are talking about issues like abortion or other things like that. But in the PAC area we have to open our minds to the single-issue orientation of the PACs. They are after small changes in law, they are not after massive changes. They are after small changes that affect their industry significantly.

So by eliminating PACs, what we have is the process opened up to a much more complex reason for giving rather than a PAC giving with something of a contract for voting, as some of them have moved towards in recent years. You would be passed on individuals who give for very complex reasons. Individuals may agree with you on nine issues, disagree on one. That one may cause him not to vote or contribute to you.

Individuals are complex, PACs are simpleminded; they simply give for a very narrow purpose. That is one critical difference between PACs and individuals.

Another critical difference, of course, is the amounts of money involved. Individuals, at the maximum, can give $2,000 per cycle, PACs did get $10,000, and we know a string of PACs can be organized, and if you get 10 PACs together in the string, the leader of the pack of PACs can give you $100,000. That is a whole lot of money. So this is a very significant difference in that quantitative way between PACs and individual contributions.

I believe that that is the way that we really can change this process, by eliminating the political action committee and freeing up Members of Congress to go, rather than to those narrow interests, to go more broadly to their individual potential contributors and ask for money. It would be a very different system and a system that involves much less money.

At that point, we would have more candidates relying on door-to-door afternoon town hall meetings and that sort of thing in order to get out their message, and everyone would address their expectations that that is how I must learn about the candidates, not from the 30-second attack adds.

Lest you think it cannot be done, it can be done that way, and I know a number of Members of Congress, including Mr. Portman to my left, who doesn't take PAC money. In fact, now in the House there are 24 of us who do not take PAC money and believe we should abolish political action committees, and we are here. It does work. It is possible. Of course you run your campaigns with a whole lot more shoe leather and a whole lot less television buys, but the result, I think, is a more informed electorate and more involved electorate and an electorate that can see the opportunity for a very different kind of Congress.

Thank you, Mr. Chairman, for the opportunity to testify today.

[The statement of Mr. Inglis follows:]

BOB INGLIS
4TH DISTRICT
SOUTH CAROLINA

COMMITTEES
BUDGET
JUDICIARY

CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515

Testimony of Congressman Bob Inglis
Committee on House Oversight
November 2, 1995

I am pleased to testify today along with other members of Congress who share a belief that the American people clearly want to see campaign finance reform. They want a change in the way the Congress operates, and by providing that change we can restore trust and integrity to the institution. One of the keys is to address the influence of PACs and PAC contributions in the political process.

While interest groups can be helpful in providing information on specific issues, it's when their members and their lobbyists show up checkbook in hand that the problems begin. Political Action Committees (PACs) -- the campaign funding side of businesses and coalitions -- are something neither this Congress nor our country needs. They have more influence on members of Congress than any constituent in the members' district. On the door leading into my Capitol Hill office is a sign that reads: "NOTICE TO ALL PACs: Remember, you didn't give me a dime, and I don't owe you a thing. Bob Inglis."

On January 4, 1995, I introduced H.R. 262, a bill to amend the Federal Election Campaign Act of 1971 to prohibit political action committees from participating in elections for federal offices. I have two major reasons why I believe it's time to abolish these sorts of organizations.

First, these contributions at the very least create a perception that members of Congress can be bought and sold. Political action committee checks can total $10,000 every two years ($5,000 during primary season; $5,000 for a general election). Taxpayers are asking, "Who is rightly being represented in this system today, Americans or PACs?"

Second, during an election, incumbent members of the House and Senate are much more likely to attract PAC money than challengers. That fact in itself indicates that PACs seek to influence votes on key issues. In 1994 House races, incumbents received 90 percent of PAC money in challenge races, and incumbents won 90 percent of challenge races. This is either a remarkable coincidence or a clear indication of the need for reform.

While my own policy dealing with PACs remains, Congress continues to be awash in special interest money. Nothing much will change in representative government until that is addressed head-on, and PACs are eliminated.

Thank you again for the opportunity to testify on this important congressional reform issue.

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The CHAIRMAN. Thank you very much, Mr. Inglis.

Mr. Portman, you have the option of trying to get your testimony in before we go vote—I see five lights are on, and we are going to have a series of votes—or join us when we finish with this series of votes.

Mr. PORTMAN. Mr. Chairman, I think I can do it in three or four minutes.

The CHAIRMAN. It is your time.

STATEMENT OF HON. ROB PORTMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Mr. PORTMAN. Thank you, Mr. Chairman, for having this very important hearing. I commend you for doing this, and I commend the Members for spending time on this matter.

It seems to me we have come to a real opportunity to pass serious campaign finance reform, given the opportunity in these hearings this afternoon and given the focus the Speaker and the Minority Leader have brought to this.

I am here to talk about my legislation regarding a PAC ban. I would associate myself with a lot of the comments made by the previous speakers with regard to the pervasive influence of PACs and the problems with it. I would like to focus on two fundamental problems I see in the campaign finance area generally and suggest that a PAC ban is the best way to solve it.

Number one is undue influence of special interests. My friend from Indiana, Mr. Jacobs, talked about the sweetening influence. It is there, and I think that should be one of the primary goals of any campaign finance reform effort.

Second is the obvious advantages incumbents enjoy in this system. Even with turnover in the House, which is primarily due to retirements, I would argue we still have a situation where there are enormous advantages enjoyed by incumbents which keep the system from being a truly open and competitive process for challengers.

The best way to approach those two is through a PAC ban. The PACs have grown enormously, from 608 in 1974 to over 4,000 today, and the influence they have has increased greatly as well.

Today PACs contribute, as most of you know, over half the money in the congressional races. They also contribute substantially to the advantages incumbents enjoy. According to the FEC 20-year report, in recent years more than 70 percent of PAC contributions have indeed gone to incumbents.

In my State of Ohio, for example, PACs supported, on average, incumbents by a margin of 10 to 1 over challengers. So by doing away with PACs I think you are going to put money and influence back where it should be; that is, in the hands of the individuals and in the hands of the voters.

Rather than funneling individuals' contributions through the Washington PAC, I would rather encourage individuals to contribute money directly to candidates they believe in. I think you would get a different result. This increases candidate accountability directly to the voters and not to the special interests that, again, have too much influence over the process.

Over the years a lot of concerns have been expressed about the constitutionality of a PAC ban, and I assume we will get into that during the discussion, and I am looking forward it. They cite the *Buckley* v. *Valeo* case, where in 1976 the Supreme Court upheld the Federal Election Campaign Act limitations on contributions. Under that reasoning, they were limited as appropriate weapons against the reality or appearance of improper influence.

Three points of clarification. Number one, the Court has never directly addressed the issue of banning political action committees. We should remember that. Whether or not PACs are constitutional has not been explicitly cited in *Buckley* or other constitutional cases by the Supreme Court. I would argue there is helpful language in the *Buckley* opinion with respect to the apparent or real corruption.

Number two, there are other forms of association that are recognized under the Federal Election Campaign Act; for example, partnerships. It is very interesting to me that if an individual gives money to a partnership and that partnership in turn donates contributions to any of us on this panel this morning, that individual's contribution is attributed to the individual, not to the partnership as a whole.

Again, of course this isn't the case with PAC contributions. Individuals can give to PACs, and it is not attributed back to them for purposes of their own contribution limits. In essence, I don't know that there is a constitutional right to give an enhanced contribution merely because one affiliates. I think if PACs are banned the problem is cured.

In any case, it is clearly wrong for corporations, labor unions, and trade associations to use money that would be an illegal contribution, if made directly to a campaign, to subsidize PACs, particularly administrative costs of PACs. I believe banning those subsidies or those PACs that receive subsidies would clearly stand up to the constitutional test.

This has to do with the issue of connected PACs. I believe that that clearly is something that would survive constitutional muster and that constitutes the majority of PAC contributions. So at the very least I think we should be in a position of coming together on legislation that would ban connected PACs.

For all these reasons and the fact that the makeup of the Supreme Court has changed dramatically in the 19 years since the *Buckley* decision, I think it is not clear that a ban on PACs would be found unconstitutional.

Furthermore, I think the other alternatives that have been discussed here today and in the debate generally are problematic. Halfway measures, I think, don't work, we have to go all the way. I think raising the amount individuals can contribute does not fundamentally solve the problem. I think it is a short-term fix. It will make one side more or less valuable as a funding source, but it is temporary.

Aggregate limits on PAC receipts is a mistake. It will place emphasis on early contributions, thus enhancing the advantages of incumbents who traditionally get these contributions, as lobbyists anticipate what are the best contests to fund.

There are ownership problems. I think raising the individual limits from $1,000 to $2,000 or $1,500 would diminish the role of PACs. True, but few individuals can afford a contribution of that size. It doesn't really open the process. Aggregate spending limits further institutionalize the general bias against challengers. So I am not a supporter generally of the limitations. I think we need to level the playing field until the alternatives are good to do so.

I would be concerned about other measures that would be attached to a PAC ban that are major campaign finance reforms. It will bog down the process. As a practical matter, I think we have an opportunity to ban PACs and get that done. I would hate to see us get bogged down again.

In conclusion, Mr. Chairman, let me say that I think H.R. 356 or any other clean PAC ban legislation is the way to go this year. It is clean, it is tough, it is fair. By banning altogether the activity of the PACs, we can make progress in making elections more competitive and getting the undue special interests' influence lessened in this city. I would encourage this committee to support that kind of a bill.

I am pleased to join you later for questions.

[The statement of Mr. Portman follows:]

Testimony of The Honorable Rob Portman

on H.R. 356

Before the Committee on House Oversight

November 2, 1995

Mr. Chairman, and Members of the Committee, thank you for holding this first in a series of important hearings by the Committee on campaign finance reform. I am pleased to testify today on the legislation I introduced shortly after my election to Congress two and one half years ago and reintroduced this year to ban Political Action Committees (PACs).

As evidenced by the interest your hearings have generated and the focus on this issue by the Speaker, I believe we have come to the point where we have a realistic opportunity to pass serious campaign finance reform that addresses two fundamental problems: (1) the undue influence of special interests and (2) the advantages enjoyed by incumbents. I think the way to do both is to ban Political Action Committees (PACs) in federal elections.

We are all aware of the tremendous growth of PACs, both in number (from 608 in 1974 to almost 4,000 in 1995), and in influence (PAC contributions now account for more than half of the money in the typical House race).

PACs also contribute substantially to the advantages

incumbents enjoy. According to the Federal Election Commission, in recent years more than 70% of PAC contributions have gone to incumbents. In my own state of Ohio, in the past election cycle, PACs on average supported incumbents over challengers by a margin of 10 to 1.

By doing away with PACs, you will put money and influence back where it should be -- in the hands of the voters. Rather than funnelling an individual's contribution through a PAC here in Washington, why not encourage individuals to contribute the money directly to candidates in whom they believe? This will increase candidate accountability directly to the voters and not to the special interests that already exercise too much influence over the process.

Over the years, some have raised the argument that banning PACs may be unconstitutional. They cite Buckley v. Valeo, the 1976 Supreme Court case upholding the Federal Election Campaign Act's limitations on contributions as appropriate weapons against the reality or appearance of improper influence. Three points of clarification. First, the Court has never directly considered the issue of whether banning PAC contributions is constitutional. But there is helpful language in the opinion, however, that says that limits on contributions are reasonable if they stem actual or apparent corruption. Second, there are other forms of association that are recognized under the Federal Election Campaign Act. For example, partnerships. If an individual gives

money to a partnership, and the partnership in turn donates the money to candidates, that individual's contribution is attributed to the individual. This is not the case with PAC contributions. Individuals can give to PACs and that amount is not attributed back to them for purposes of their own contribution limits. In essence, I don't know that there is a constitutional right to give an enhanced contribution merely because one affiliates. If PACs are banned, this problem is cured.

In any case, it is wrong for corporations, labor unions or trade associations to use money that would be an illegal contribution if made directly to the campaign, for fundraising or administrative subsidies to their PACs. I believe banning those subsidies or PACs that receive those subsidies would clearly stand up to the constitutional test. At the very least we should ban these so-called connected PACs, which constitute a majority of PAC contributions. For these reasons and the obvious fact that the makeup of the Supreme Court has changed in the 19 years since the Buckley decision, I think it is not at all clear that a total ban on PACs will be found unconstitutional.

Furthermore, the other alternatives are problematic. I don't think halfway measures such as placing a limit on the amount PACs can contribute or raising the amount that individuals may contribute will fundamentally solve the problem. Certain fixes may decrease the disparity between the contribution levels, making one side more or less valuable as funding sources, but it

may only be a temporary fix.

Establishing an aggregate limit on PAC receipts would place a greater emphasis on early contributions by PACs, working to the advantage of incumbents who traditionally accumulate large campaign war chests and permitting the large PACs to easily anticipate which are the strongest contests to fund. And there are other problems. While raising the individual limits from $1,000 to $1,500 or $2,000 might help to diminish the role of PACs, few individuals can afford to make a contribution of this size, so we would not be significantly opening up the process. And, of course, aggregate spending limits further institutionalize bias against challengers -- since challengers often need to spend more money than incumbents just to achieve name recognition and to get their platform and ideas well known to the public. We need to level the playing field.

I would also be concerned about measures that contain other major campaign reforms. My fear is a practical one: bills that contain numerous complex and controversial proposals are likely to get bogged down in the process and prevent movement on curbing the influence of special interests. We've seen this again and again. After years of talking about the need to reduce the influence of special interest PACs and increase competition in elections, I'd hate to see us get bogged down again.

I think H.R. 356 is the way to go this year because it's

clean and it's tough. By banning altogether the activities of PACS in federal elections, we can immediately make elections more competitive, more fair and a better reflection of the wishes of our citizens.

I hope we'll get serious about the need for reforming our campaign finance system. I hope we'll support real change and pass a clean no-PAC bill.

Thank you, Mr. Chairman. I would be pleased to answer any questions that you or the Members of the Committee may have.

The CHAIRMAN. If you are able to join us—we have about five minutes left on the current vote and a five-minute vote following—about 10 minutes after the last vote, the committee will reconvene.

The committee stands in recess.

[Recess.]

The CHAIRMAN. The committee will reconvene.

And the gentleman from Kentucky, Mr. Whitfield.

STATEMENT OF HON. ED WHITFIELD, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF KENTUCKY

Mr. WHITFIELD. Mr. Chairman, thank you for this opportunity to present testimony on campaign finance reform.

My name is Ed Whitfield. I represent the First Congressional District of Kentucky. No fewer than 42 bills addressing campaign finance reform have been introduced this year. These bills limit campaign spending, place limits on out-of-State, out-of-district contributions, subsidize postal and broadcast rates for campaigns, and eliminate PACs.

One thing is certain about these proposals. The Federal Election Commission will soon become one of the largest Federal agencies, this at a time when we are trying to limit the role and size of government.

However, I do agree campaign finance laws are not perfect and changes should be initiated to make them more equitable for challengers.

In spite of the incredible turnover in Congress last November, 80 percent of those elected were incumbents. The primary reason was the advantage incumbents have in obtaining campaign contributions from political action committees. This is the only part of campaign finance laws which needs to be changed.

Political action committees, far from being an evil force that will destroy our Democratic political process, as some allege, are the essence of our democratic system.

Today, there are nearly 4,000 political action committees representing every faction of our society. Some represent teachers, farmers, attorneys and miners, others represent religious denominations or veterans, others represent causes such as opposition to flag desecration, or whatever.

James Madison, in writing in Federalist No. 10, talked about the importance of factions in our country. He basically said they are the essence of American freedom and liberty. So I come to the conclusion there is no need to fear political action committees.

PACs represent the various interests of the American populace, and PAC representatives bring important information to bear on the process of government for better decision-making. Exaggerating the evil of campaign money derived from political action committees and the amount of money spent on campaigns does a disservice to our system of government.

In 1968, the cost of political campaigns was three-one-hundredths of 1 percent of the gross domestic product. Today, it is only six-one-hundredths of 1 percent.

The Smith-Shays bill, and most of the other bills, raise serious questions about infringement on constitutional rights, by not allow-

ing citizens to exercise their freedoms of speech, association and petition.

A basic premise of our Constitution as set out in the 1976 Supreme Court case of *Buckley* v. *Valeo,* is that the First Amendment applies with special force to political campaigns.

The bill that I have introduced, H.R. 1865, increases the contribution limits for individuals to $3,000 per election, or $6,000 per cycle, and decreases the amounts for PACs from the current $5,000 to $3,000, or $6,000 per cycle. The objective is to level the playing field between challengers and incumbents by reducing the contribution levels of PACs and raising the amount of individuals.

My personal experience as a challenger last year was that I was unable to raise PAC money. I had to go to the individuals. They were limited. Many of them would have given more money if they could, but under the Federal laws they could not.

Had the contribution limits been indexed 20 years ago, the individual limit would now be over $3,000, and the PAC limit would be over $15,000. My proposal brings the individual limit in line with inflation, while reducing PACs' limits by 40 percent. Increasing the individual limit recognizes that, in effect, over the past 20 years, we have had static contribution limits without price controls on the cost of campaigns.

My bill avoids the constitutional implications of completely banning PACs or placing limits on geographical contributions. It is achievable this Congress, while proposals such as Smith-Shays face a certain filibuster and constitutional challenge.

My bill avoids public subsidies necessitated by the spending limit approach, and as we know, subsidies will ultimately be paid by the American taxpayer.

Most important, my bill creates equity for incumbents and challengers.

Fundamentally, we have a good campaign finance system. I urge Members of the committee to enact a simple common sense campaign finance reform that creates equity for incumbents and challengers. But most important, we do not want a Federal bureaucracy micromanaging our campaign system.

Thank you.

The CHAIRMAN. Thank you very much. We appreciate your testimony.

[The statement of Mr. Whitfield follows:]

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COMMITTEE ON COMMERCE
SUBCOMMITTEES
COMMERCE, TRADE AND HAZARDOUS MATERIALS
HEALTH AND ENVIRONMENT

Congress of the United States
House of Representatives
Washington, DC 20515-1701

November 2, 1995

Testimony of Congressman Ed Whitfield

Committee on House Oversight

Hearing on Legislation concerning the Role of Political Action Committees in Federal Elections

Mr. Chairman, thank you for this opportunity to present testimony on campaign finance reform. My name is Ed Whitfield, and I represent the First Congressional District of Kentucky.

No fewer than 42 bills addressing campaign finance reform have been introduced this year. These bills do everything from limiting campaign-spending, to subsidizing postal and broadcast rates for campaigns, to eliminating PACs altogether.

Campaign finance laws are not perfect, and changes can be initiated to make them more equitable for challengers.

In spite of the incredible turnover in Congress last November, 80 percent of those reelected were incumbents. The primary reason was the advantage incumbents have in obtaining campaign contributions from Political Action Committees.

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PACs began in the 1940s. At that time, they were limited to labor organizations. Today, there are nearly 4000 PACs, representing every faction of our society -- some represent teachers, farmers, attorneys and miners; others represent religious denominations or veterans of our nation's wars; still others represent causes such as opposition to flag desecration or support for gun control.

Political Action Committees, far from being an evil force that will ultimately destroy our democratic political system, as some allege, are the essence of our democratic system.

In Federalist Number 10, James Madison wrote of "factions." A faction is:

> "A number of citizens, whether amounting to a majority or minority of the whole, who are united and activated by some common impulse of passion or interest, adverse to the rights of other citizens, or to the permanent and aggregate interests of the community."

Madison believed it would be impossible to rid the nation of factions without destroying what was to be the essence of America -- freedom and liberty.

A faction will only prevail when it becomes the majority position, that is, when consensus develops.

So I come to the conclusion there is no need to fear Political Action Committees. PACs represent the various interests of the American populace. PAC representatives or lobbyists bring important information to bear on the process of government for better decision-making.

PACs promote citizen participation -- encouraging and enabling people to participate in the formation of public policy. They act as a tool for average Americans to become informed and responsible contributors to the governmental process.

I firmly believe that abolishing PACs would create a chasm between the classes. Put simply, candidates would be more dependent on the wealthy, and the less affluent would not have the opportunity to pool their resources for real impact.

The Smith/Shays Bill raises serious questions about infringements on constitutional rights, by not allowing citizens to exercise their freedoms of speech, association and petition. A basic premise of our Constitution is that the First Amendment applies with special force to political campaigns.

Campaign finance reform should not limit Americans' involvement in government or their constitutional rights. The idea that campaign money fundamentally corrupts politics persists only because it is endlessly repeated by so-called reform groups, reported by journalists and proclaimed by politicians themselves.

Exaggerating the evil of campaign money derived from Political Action Committees and the amount of money spent on campaigns does a disservice to our system of government. In 1968, the cost of political campaigns was three one-hundredths of one percent (0.03 percent) of the Gross Domestic Product. Today, it is only six one-hundredths of one percent (0.06 percent).

As you know, current law allows individuals to contribute up to $1000 per election -- $2000 per election cycle. Political Action Committees can give up to $5000 per election -- $10,000 per cycle.

My proposal, H.R. 1865, increases the contribution limit for individuals to $3000 per election and decreases the limit for PACs to $3000 -- $6000 per cycle.

The objective is to level the playing-field between challengers and incumbents by reducing the contribution level of PACs while still allowing individuals they represent the opportunity to be involved in the political process.

Had the contribution limits been indexed 20 years ago, the individual limit would now be over $3000, and the PAC limit would be over $15,000.

My proposal brings the individual limit in line with inflation while reducing the PAC limit 40 percent. Increasing the individual

limit recognizes that, in effect, over the past twenty years, we've had wage controls (static contribution limits) without price controls (skyrocketing broadcast, mail costs, etc.) in campaigns.

My bill:

(1) avoids the constitutional implications of completely banning PACs -- which are a product of previous reform efforts.

(2) It is achievable this Congress, while the Smith/Shays proposal faces certain filibuster and constitutional challenge.

(3) It avoids "public subsidies" necessitated by a spending limit approach. (We know that "free" broadcast time, 50 percent lowest unit rate discount and bargain-basement postal rates ultimately cost American taxpayers.)

(4) Most important, it creates equity for incumbents and challengers.

Congress has tried time and time again to implement real campaign finance reform. Now -- in the historic 104th Congress we are balancing the budget, implementing a line-item veto and responding to the concerns of Americans -- it is also time to enact simple, common-sense campaign finance reform that creates equity for incumbents and challengers.

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The CHAIRMAN. The gentleman from Pennsylvania, Mr. Greenwood.

STATEMENT OF HON. JAMES C. GREENWOOD, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. GREENWOOD. Thank you, Mr. Chairman. Thank you for holding the hearing.

The committee has my testimony so I will simply briefly summarize it.

I was invited here because of my introduction of House Resolution 1432, which bans all PACs of any kind. It is one of the extreme positions.

Let me tell you three reasons why I think this is a reasonable thing to do, and why it is good for our country and for the future of our country.

I think there are three problems associated with political action committees: The first of those is that regardless of how each of us as a Member of Congress conducts ourselves and how much we know about the source of our finances and how we manage the relationship between contributions and our positions on the issues, what is not debatable is that the PAC system does undermine confidence of the American voters in our system. It is simply unreasonable to expect Members of Congress to stand before their constituents and say, yes, it is true, I received $50,000 of contributions from the pharmaceutical industry; yes, I voted with them yesterday. You need never trouble yourself about the correlation of those two events. It simply is too much to ask the American people to accept that there is not at least the appearance of a conflict there. And for that reason, more than any other, I think we need to eliminate the PAC system.

The second evil that I think is associated with PACs, or the second problem, is the way in which they, I think, undeniably favor incumbent retention and protect the status quo and mitigate against change. We all know how the process works.

And the example that I use is somewhere out in the farm belt there may have been a fellow who ran for Congress 20 years ago because he didn't like the way Federal policy affected farmers. And so he ran for Congress and he got elected and he didn't get on the Agriculture Committee, he got on the Fish and Marine Committee. And next thing you know he is the Chairman of some subcommittee that has to do with exports, and 20 years later he is a powerful exponent of everyone who is not necessarily in favor of the farmer back home because that is where his money is coming from.

The challenger, 20 years later, finds himself in the same place this fellow did 20 years ago, says I am tired of Congressman X, he is constantly voting with the exporters and the shippers and not the farmers, and it is time now to mount a challenge here. By the time that young farmer raises a few thousand dollars from his fellow farmers, the big powerful incumbent, with his PAC contributions from all over the country, that have nothing to do with back home, enable him to finance a television campaign against the challenger that wipes the challenger out before he gets started. Resources can be focused from around the country based on a Member's position and other special interests. Because of this, I think

the system is corrupted as it undermines the ability of a challenger to get off the ground.

And thirdly, I think that the PAC system causes American citizens who contribute to PACs to become far too narrowly focused in terms of the issues that they consider when supporting a candidate. The doctors are told by their association, this candidate is good for doctors, this candidate is not good for doctors, and the member makes his contribution and usually his vote on the basis of that, and doesn't consider the wide array of issues that each of us deals with in Congress.

I think that if we change to a system in which individuals contribute writing their own personal checks, to the candidate of their choice, it will cause them to consider all of the issues at stake in an election and not simply the issue that is related to their profession or a narrow interest.

I understand that some people worry about whether they can survive without PAC contributions. I will tell you that when I challenged a 14-year incumbent in 1992, he spent $1.25 million. We spent $750,000. We both took PAC money. I had challenged him not to. He didn't agree, so we both took PAC money.

When I was elected, I decided I would not take PAC money, haven't taken any PAC money since, and what we managed to do is bring the cost of the campaign in our district down by about 75 percent. There are four United States Senators and I think 24 house Members who don't accept PAC contributions. I think this brings about a fair fight in each district.

Wealthy districts have expensive campaigns, financed by individuals. Low-income districts have low-cost campaigns characterized by a lot of door-knocking and speech-making and less TV, and I think in each district it brings about a fairer fight.

Finally, I would say that on the question of constitutionality, based on my understanding of the *Buckley* case, I think the door is open to ban PACs. Because clearly the *Buckley* case talks about the appearance of corruption. Although the word "corruption" is rather a strong word, I think that there is enough room constitutionally for us to ban PACs and have it hold up in court.

And I yield back the balance of my time.

[The statement of Mr. Greenwood follows:]

STATEMENT BY THE HONORABLE JAMES C. GREENWOOD
HOUSE COMMITTEE ON OVERSIGHT
NOVEMBER 2, 1995
on
H.R. 1432,
A bill to abolish Political Action Committees

Mr. Chairman and distinguished members of the committee, I would like to thank you for the opportunity to appear before you today to discuss the importance of campaign finance reform. I believe that we have an opportunity to work together to craft creative meaningful reform measures. To my way of thinking, the only true reform would include the reduction of the influence of Political Action Committees (PACs) on the democratic process. On April 6, I introduced H.R. 1432, which would amend the Federal Election Commission Act of 1971 to eliminate certain contribution provisions regarding authorized committees and multicandidate PACs. In fact, H.R. 1432, addresses the PAC question head-on with a clear and understandable solution -- the elimination of PACs from top to bottom. My bill, which I introduced hoping to stimulate debate on this subject, would eliminate business PACs, industry PACs, advocacy group PACs, even individual Member and leadership PACs.

In March of my freshman year I announced that as a candidate for the U.S. House, I would not accept PAC contributions. As one of the Members of this House who does not accept these dollars, I can assure you that the United States Congress can and must do away with the PAC system of financing campaigns.

When the people of my district elected me to represent them in the House of Representatives in 1992, my opponent and I combined to spend over $2 million on that campaign. My opponent, a 14-year incumbent who relied heavily on PAC dollars, raised and spent over $1.25 million in an attempt to retain his seat. Two years later, my constituents witnessed a different sort of race entirely. In a race where I faced three challengers, we combined to spend less than $400,000. I attribute much of this $1.6 million reduction in campaign spending to my personal refusal to accept PAC money.

The problem with the PAC system is, at least, fourfold. First and foremost, the system helps to undermine the confidence of the public in their Member of Congress. Many citizens seem to wonder whether their elected representative casts his or her vote based upon what is in the best interest of the electorate, or if votes in the House are cast with an eye to past and future special interest contributions. To guard against this perception, the standard for ethical conduct in public life must not be one of simply avoiding conflicts of interest, but rather the avoidance of even the <u>appearance</u> of conflict of interest. When I vote on legislation facing the Congress, I know that I cast my vote based purely on the merits of the

bill and how it will affect my constituents. However, many Americans are uncomfortable when their representative accepts funding from special interests and Political Actions Committees. If a Member of Congress receives PAC contributions from organized labor, specific industries or pressure groups on one day and then votes in their favor on another, the public cannot be certain that there is not a connection between these events.

The trust of my constituents, derived from the knowledge that they need not second guess my motives, is worth more than any image that could be created by PAC-funded advertising.

Second, the PAC system provides incumbents with an enormous, and in many instances, unfair, advantage. Thus the system of representative democracy is distorted to serve the interests of the powerful and to muffle the voice of the voters. Powerfully placed Members can rake in hundreds of thousands of PAC dollars from sources that have nothing to do with the needs of the people they were elected to represent and everything to do with their committee and subcommittee assignments.

A bright and energetic challenger, who may truly reflect the values and aspirations of the folks back home, may struggle to raise funds locally. Before he or she can even get a campaign off the ground, the incumbent can use his or her overwhelming financial superiority to negatively define the challenger with paid advertising. When incumbents refuse PAC money and accept a voluntary role in this reform movement, they are offering to give ideas and legitimate challengers a chance to be heard.

Third, the PAC system results in a process that diminishes a constituent's incentive to contribute as an individual. After all, while a PAC can give up to $5,000 to a candidate, a sole contributor, including our own constituents, can donate only a fifth of that amount. To diminish the negative perception that PAC dollars buy influence and votes perhaps PACs and individuals should be able to contribute the same amount to the candidate of their choice.

Four, the single-issue quality of the PAC system promotes contributions based upon just a narrow range of issues. For instance, it encourages lawyers to contribute to candidates who vote in favor of lawyers' interests. As such, contributors to PACs are exhorted to limit their financial support to those candidates who vote "correctly" for specific professions, unions, industries, companies and advocacy groups. As we all know; however, candidates must have positions and records on the entire spectrum of issues. Citizens need to evaluate candidates based on the entirety of their beliefs and actions, decide which issues are most critical to them, and lend their support accordingly.

When I introduced H.R. 1432 earlier this year, I knew that the battle for genuine reform would be fierce. According to Common Cause, for example, as of August 2 of this year, there were only four Senators and 25 members of the House who refuse PAC money -- including four members of the House freshman class. This is a modest beginning, but it is

not enough. Those of us who have made this decision need to convince other Representatives that they can win their election without taking these dollars.

While I remain committed to the abolition of PACs, I continue to be a steadfast supporter of overall campaign finance reform. As such, I look forward to a debate on in-district contribution levels, public financing, spending caps and, of course, PAC contributions.

In the meantime, I remain steadfast in my belief that as long as a Member of Congress has the public's trust, he or she doesn't need the hundreds of thousands of dollars of PAC contributions to be elected.

Again, I thank the Chairman and the members of the committee for conducting this hearing. I think that such a forum is tremendously important, not just for those of us who are supporters of campaign finance reform in the Congress, but for Americans nationwide who support our efforts.

The CHAIRMAN. I thank the gentleman for his testimony.

With those of us that are here, it appears to be pretty close to a fair fight. Because Mr. Kanjorski, Mr. Whitfield, although modifying the amount of money that PACs have, believe they ought to exist. And Mr. Greenwood and Mr. Inglis do not. Andy Jacobs doesn't think there should be any private money, PAC or individual, in the system. So we have got a relatively even discussion opportunity.

Obviously, then, those of you who believe that PACs should not be allowed to exist in terms of voluntary associations, combining information and money to assist candidates, that you don't think there is a First Amendment problem with (banning) PACs. Obviously, you wouldn't have offered it.

Do you believe the question is open, that it could go either way, or that you are pretty comfortable that there is no First Amendment problem with banning the free association and the combining of money for participation in the system?

Now, Andy's position would seem to be that you would simply ignore—pass law that says you can't do any of that. Now, what are you going to do?

Mr. JACOBS. No, no, I propose a constitutional amendment.

The CHAIRMAN. Excuse me, correct. A Constitutional amendment to make sure that there is no individual money involved.

Mr. JACOBS. Yes, I think that is necessary. Of course, I will just elaborate slightly on that. Who was it, Teddy Roosevelt said that what is constitutional depends on whether the fifth Justice comes down heads or tails. And I think we have that problem here.

As near as I can tell, the theory must have been the old American slang expression "money talks," and therefore it was entitled to First Amendment privileges.

The amendment, Mr. Chairman, that I have proposed, does two things: It states that neither physical desecration of the Flag of the United States, nor political contributions of money for the purpose of electing people to public office, shall be speech under this article.

As I say, I think you have to stretch your imagination a long way on both of those, and all I want is a little correctional navigation.

Mr. GREENWOOD. The *Buckley*, in the *Buckley* decision, as I understand the rule, was that the government can restrict contributions only—the only purpose recognized by the Supreme Court to justify such restrictions is the prevention of real or apparent corruption.

As I said in my testimony, corruption is a strong word to apply here. But I think the use of the word "apparent" clearly makes it—I think if you ask American citizens if they think the special interest contributions to congressional campaigns corrupt the process, I think clearly you would get a rather overwhelming affirmative answer. I think that the—that that gives us more than ample room to sustain constitutional challenge. I am not an attorney.

The CHAIRMAN. A proposed discussion might be that the same decision removed the limits on individual personal money being used in the campaign. Congress in the 1974 amendments to the Federal Campaign Act said there were limits on personal money, and the Court removed them.

Is there any general feeling that unlimited personal funds have the appearance of corruption in the system as well? Perhaps they could be banned on that same constitutional basis, or is that stretching it too far?

Mr. KANJORSKI. Mr. Chairman, not to get into the Constitutional question, because I really think we get off the point, and will never accomplish campaign reform if we get into that. But PACs existed in the United States for hundreds of years in one form or another. In some instances, we called them country clubs, in some instances we called them union halls. In Pennsylvania, we used to call them the Pennsylvania Railroad and United States Steel.

We have seen the abundant ability of a few people to put resources together that affect gubernatorial elections, senatorial elections, congressional elections, on down to legislative and local elections.

You know, maybe the Congress made a big mistake. On the way over, I was thinking about it. If only we had not called them "political action committees" which became known as PACs, became Pacman, we said instead Democratic Action Committee, and everybody is for democracy, it may be a nomenclature problem.

The fact of the matter is most people do not realize what a PAC is. So many people have campaigned against PACs, they do not realize that you have more accountability and disclosure now in the law, since the campaign reforms of 1970s were put in place, than we ever had.

I come today with a unique perspective. There are only two Members of the current Congress who served in the Congress the last time it was controlled by the Republican party. I served in the 83rd Congress of the United States as a Page. I saw the makeup of the last Republican Congress. And things have changed a great deal since then, and those people that didn't have the perspective.

There wasn't a Member's office then that you couldn't go into at that time, where there wouldn't be a safe. As a matter of fact, this very building was designed with the safes in the Member's offices. I hope you don't think they were putting their chess sets in there. They were putting their campaign funds in those safes. And they had bank accounts downtown, in the largest banks, with hundreds of thousands of dollars, totally unaccounted for.

It seems to me the corrections of the 1970's, like political action committees (PACs), was quite a revolutionary correction. And it has allowed many industries to have an undo influence on some particular pieces of legislation. And I think you have to worry about that, the pharmaceutical industry, for example, wants some special provision, tax benefits for operating in Puerto Rico.

But the PACs I receive money from on the Democratic side are the carpenters in my district, the plumbers in my district. And the major difference is they give five bucks a month or two bucks a month each to a PAC and they get all of these small contributions together and they send me a check for $1,000 or $2,000 to represent 1,500, 2,000 people.

If I had to solicit them under our normal process, we would probably spend 50, 60 percent of the funds raised on expenses, running to restaurants, selling, doing advertising, for that amount of money. Would that make it any better money?

You feel it does make it better money? Well, we differ——

The CHAIRMAN. Paul, let somebody get in on that in terms of if they do feel it is different, why is it different?

Mr. INGLIS. I think it is considerably different.

The CHAIRMAN. What is negative about it?

Mr. INGLIS. In fact, that is what we want you to do. We want you to go to somebody and ask them: Will you come to my baseball event and pay $25 per family and commit to this thing, that endeavor? Rather than having the union hall or the corporation basically impose upon employees or members. And there is extortion, I mean, it is a fairly strong word——

Mr. KANJORSKI. That is enforcement, that is a question of enforcement. If that is occurring——

Mr. INGLIS. Well, but again if—maybe extortion is a little too strong a word. We all know, for example, in an United Way Campaign, everybody in the accounting firm is expected to give "X" amount of dollars, because they want 100 percent. Now that is not extortion, it is just a social norm. So the social norm at the union or at the office is that you will give to the PAC.

Mr. KANJORSKI. Having lived in both parties——

The CHAIRMAN. Let me ask a question to try to focus on, because, Paul, I think I agree with you, if you ask the constitutional question, you are all over the place.

If we can set the constitutionality question aside, is there a logical argument for individuals who come together in an association having the ability to contribute more to a candidate in a particular election cycle, than individual?

Mr. INGLIS. If I may address that.

The CHAIRMAN. Mr. Whitfield's legislation goes directly to that. He says, no, the same amount should go to either. He said since limits were not indexed, the $3,000 amount seems to bring it up to date. Ed's legislation goes directly to that.

Those of you, even though you may feel you can ban PACs constitutionally, do you believe that if you are wrong there is a rationale for having a different amount for collections of people versus an individual?

Mr. KANJORSKI. I think it is a degree of sophistication and knowledge. And what you are running against—there was a famous Senator who——

The CHAIRMAN. I really—if somebody has got a specific response, especially those who are opposed to PACs, because I am trying to follow a line of questioning here?

Jim, you had your finger up.

Mr. GREENWOOD. The question you asked earlier was is there an argument for not having a limit on individual contributions? I think there is—there should be a limit on individual contributions.

The CHAIRMAN. I am not speaking of personal money, the Court has said personal money has no limit. Should there be?

Mr. GREENWOOD. I think there should be a limit. I think it makes some sense to take that $1,000 limit and inflate it up to $2,600 or $2,500 or 3,000, whatever inflation would have done to it. But I think that the distinction here is if—if Mr. Kanjorski goes to his district and he invites as many carpenters as he can find who like him in his district and they all come with $20 or $50, and

to his beef and beer, I don't care whether that adds up to $500 or $15,000, if that is how many carpenters he has who live in his district who support him.

Mr. KANJORSKI. And that gets down to the argument——

Mr. GREENWOOD. If I may, what is problematic is when carpenters or when plumbers from all over the country send money to Washington, and a district has very few, if any, carpenters, this can funnel thousands upon thousands upon thousands of dollars in against a challenger who may be completely consistent with the views on labor management relations in his district.

The CHAIRMAN. That gets to the point of dealing with the majority-in-district concept or another approach to where the finances come from, but we are going to get into that in subsequent hearings.

Mr. GREENWOOD. Clearly, the PAC system answer is for you. It says that money will flow from the 434 districts to the 435th.

The CHAIRMAN. I understand. Are there ways to deal with it without banning PACs?

Mr. WHITFIELD. In 1994, the National Journal did a survey before the 1994 election and only 2 percent of the American people even felt campaign finance reform was a significant issue.

Second of all, the most important thing about campaign finance laws, which we have plenty of, is disclosure and that the voters know who gives money to whom and they can raise an issue if it is out of State, in State, or however they want to do it. I think that micromanagement just creates additional problems for the system.

The CHAIRMAN. And with disclosure, timeliness is required and adequate resources to let folks know what was disclosed. My time has expired.

I will recognize the gentleman from California.

Mr. FAZIO. Thank you, Mr. Chairman.

I want to apologize to some in the sense I didn't hear your statements and others in the sense I have not been able to engage in the questioning. Porter Goss was just listening to me talk about gift and lobby reform over in the Rules Committee and he took my remarks for the record there and I told him we would take his here. He would like to join this panel but has not been able to do so.

There is no question that PACs have become the symbol of special interest giving, but I think we all realize that before PACs a lot of people gave a lot of money for special interest purposes and that was never evident to anybody. It wasn't visible. Wasn't disclosed. It wasn't above the table. Therefore, perhaps the public felt better about the process but, in fact, they were not being as well-served by it.

I do think it is important to put on the record that the average rank and file union member puts in about 6 cents a week and even the corporate PAC contributor contributes something like $3.65 a week to a PAC. Whether we like it or not, it involves some 12 million people who give to 4,000 PACs, some more than one.

When we go to simply allowing individual donors to dominate, I think we do tend to go back, one, to an era where disclosure was not as prevalent and as useful, where putting down "lawyer" or "homemaker" didn't really indicate why you had given.

And I think it also would tend, depending on how we would do it, to advantage people of means over people who have little to contribute or choose to contribute little. I am well aware of people who have been giving $25 for 20 years, immune somehow to the ravages of inflation. Many of my givers fall in that category.

I would like to think we could if we do less with PACs in terms of what they can contribute, we would also perhaps think in terms of limiting what individuals could give. Yet I hear some say, and maybe some of you on this panel, who think we need to reverse it. I think the Speaker said that earlier. Limit maybe to a thousand what PACs give and let individuals give $5,000.

I think we have to be fair to people of means but not disadvantage people who have little opportunity to contribute and who sometimes in their collective wisdom, whether it be a pro-life pack or teachers group, ought to be in a position to speak louder than their financial wherewithal would normally permit them to. I would be interested in anybody's reaction.

The CHAIRMAN. (To Mr. Greenwood:) You can respond to him.

Mr. FAZIO. Jim.

Mr. GREENWOOD. First of all, the fact that the current status situation is an improvement over the past, I think, is a given, but I don't think that excuses us from taking the next step towards reform.

I think that if you wanted to have disclosure of every single contribution of any size I don't have a problem with that. We itemize them all anyway. I don't have a problem if they itemize all the occupations.

But on the issue of people of means versus people of lesser means, I think that that is a distraction, frankly. They are the same people giving to the PACs. The union member who gives the average of 6 cents, I am sure that is average, not an average of people who give to PACs, but it is an average of the unions. But the union PAC member whose total contribution over the course of the year may be $25, $50, $100 or $200 is still able to go to the union hall to an event for a candidate with his personal check and just as they do, as they magnify their power of giving through their PACs, they can certainly do that with their numbers. But then they represent the people in the district of like mind, people in the district of like mind, individually, freely coming and making a contribution. I know it is an organizational problem.

Mr. FAZIO. Sure.

Mr. GREENWOOD. It is easier for the union to say, fill out the form and we will give you 15 minutes to do that, and then it is on automatic pilot. It is easier to do that than call them on the phone and say, come out and come to Kanjorski's fund-raiser. But the PAC individual can give at one time to the PACs, the same as people of means can give $1,000 to a PAC and so—and they also have the same organizational problems that managers would have, such as to come to an event for Greenwood or Kanjorski. So the means issue is not really pertinent.

Mr. FAZIO. Did you have your hand up earlier?

Mr. INGLIS. It is a mystery to me why someone would postulate that it is easier for people of small means to give through the vehicle of a PAC. I just don't understand it.

Mr. KANJORSKI. I think I do.

Mr. INGLIS. Let me explain why I say that. It is very easy for someone of small means to write the check. Consider if they want to set up a PAC, though. They have to go hire a lawyer to establish the PAC, they have to have an accountant, all the structures. Clearly, it benefits structures and not individuals. Those are clearly designed, tilted in favor of either corporations or large labor unions. They are not tilted in favor of somebody at home who just wants to write a check. It is clearly harder to give through the vehicle of a PAC.

The ownership is very important. I think that is what Mr. Greenwood was getting at, too, the sense of belonging to the Member of Congress and being part of his or her band is a very important part of America. We want people to believe in that candidate, to go and have the refreshments with the candidate and mix with him or her and their family and be part of it.

Mr. FAZIO. Let me say I think we are generalizing because I know there are corporate PACs and labor unions that are very closely tied to their members who are givers. For example, the postal workers will always have at your fund-raiser the people who are members of their union in the community to make sure that it is just not a check from some lobbyist. They want you to know who is there. The Farm Bureau will typically have people at the meeting who are actually contributors to their PAC.

Now, I have to say not everyone operates the way those entities do. There are some far more impersonal but you may want to go to the questions of democracy with a small "d" within the PACs or whether or not they ought to be able to use corporate or treasury union money to solicit for funds.

Some organizational structures do lend a great deal of background and financial substance. The overhead for fund-raising and others are much more dependent on the interests of the individuals to give. That is also true of PACs that are created for single issue purposes where there is a tremendous amount of fervor and therefore no problem raising the money to hire the accountants and lawyers, and, remember, that is there because we believe so strongly in disclosure and it does remove it from the amateur category but for a purpose more important to the public.

The CHAIRMAN. We are operating with timing lights here and there will be an opportunity for a second round of questioning if we adhere to the lights. Obviously Members will pursue lines of questioning which may or may not coincide.

Does the gentleman from Michigan, Mr. Ehlers—before you inquire let me mention the gentleman from Ohio, Mr. Portman, is back with us, and regardless of the argument of the constitutionality of PACs or not, he did in his testimony bring up a couple of what I consider to be anomalies perhaps where individuals in contributing under one structure, partnerships, are counted as individual contributions whereas under a PAC structure they are not.

So you have ways to multiply your ability to influence the system notwithstanding the $1,000 limit on individuals. We are going to have to focus on that problem whether or not—obviously, if you assume PACS are unconstitutional you can eliminate them. But that

is a problem that no one else focused on and I want to bring that into the discussion.

The gentleman from Michigan, sorry.

Mr. EHLERS. Thank you, Mr. Chairman.

It seems to me based on the testimony I have heard that the reason individuals want to ban PACs is somehow they either do illegally influence the behavior of Members of Congress, or putting a better cast on it, they give the perception of having an influence on the behavior of Members of Congress.

I happen incidentally to think that is not true. It would be a blatantly illegal action to do so.

But I want to mention something that I have not heard at all in terms of influence of PACs. That is not influencing the behavior of individual Members of Congress but rather in determining who gets elected to Congress.

That is an issue that I think should be addressed as being far more pertinent to the matter of PACs. Clearly, I am much more likely to get contributions from the Chamber of Commerce than from the unions, although I do get contributions from both. The Democrats are more likely to get contributions from unions than from the Chamber of Commerce.

Why is that? It is not because of any individual qualities. It is because they want a Democrat or a Republican elected.

So, in a sense, I think if you are talking about the dangers of PACs, it is not in changing individual votes or individual behaviors, it is in determining who gets elected in the first place.

Mr. WHITFIELD. Mr. Ehlers, I brought that issue up in my testimony. That was what I perceived to be the most significant problem. In 1994, 80 percent of the people elected were incumbents. That is basically because of the disparity in the system. PACs can give $10,000 in the cycle and individuals can give $2,000. If you are a challenger, you are simply not going to receive PAC money.

Mr. EHLERS. That may be a factor, although I think there are many, many factors in incumbency retention, and the last two elections gave the lie to most theories of why incumbents get reelected. I am sorry I missed your testimony and did not hear that point.

The other thing that concerns me a little bit about the testimony of those who want to eliminate PACs is there is no discussion of the influence of individuals. I don't know if your experience is different from mine, but I have never, ever had a PAC approach me and in any way imply they wanted my vote in return for a contribution. Never. I have had quite a few individuals talk to me and say "I gave you $50 and I want you to vote this way on this issue." We have all had that.

What is so terrible about PAC contributions and what is so good about individual contributions? In that regard, I commend Mr. Jacobs. He will get rid of all of them. But that creates yet another problem because in your proposal the incumbent and challenger are treated equally and the incumbent has better name identification. Each is given the same radio, TV and newspaper space, but the incumbent still has the advantage.

Mr. JACOBS. May I respond?

Mr. EHLERS. What I am simply pointing out is I am not convinced as to what your motivation is; you are still going to have problems remaining. You may respond.

Mr. JACOBS. If I may, I wonder how many people know the name Kato Kaelin. He was on the witness stand fairly briefly but everybody in the country knows who he is.

The greatest equalizer I can imagine is when the public comes to paying attention after the World Series is over, and if both people, the challenger and the incumbent, are on an equal measure, the TV, and they both can be seen and judged that way it is a great equalizer.

There is another thing, I don't know what makes anybody think the challengers automatically are the ones who are going to get a lot of money if you take the strictures off. Clearly, that is not the case.

There is an old saying, who pays the fiddler calls the tune. If you let the American public pay the fiddler, they will come a lot closer to calling the tune. With all due respect to my friends from tobacco growing areas, how in the world do you suppose tobacco subsidies passed year after year if it weren't for the fact there are two kinds of cigarette packs? Packs and PACs.

Mr. KANJORSKI. May I suggest we are looking at the wrong thing again. What we should be looking at is comprehensive reform and how to encourage the broadest possible participation in the Democratic process, particularly in getting elected to Congress. That means challengers have to have an opportunity for access to the voter.

How that is attained—we wouldn't be talking about PACs here today if we didn't have private enterprise running our licensed TV stations, because as a matter of fiat, we can issue stamps or give candidates time. All of us know that is two-thirds of our costs in our districts. Clearly, if we opened up the radio and TV stations for an allotted number of hours to be used by candidates at their will, that sounds like a great thing for probably 300 of us. But those poor characters in Los Angeles, they are never going to get heard. So we know there is no way of putting into force the ideal system.

We are so diversified and so broad a country. So why try and change the private ownership of the airwaves? Why go through all the machinations? Why not just try and find a way that we can get equality of accessibility for ideas, knowing full well we will not get to perfection?

But there isn't any doubt in my mind that the last election did prove something to me, the winners other had less money then the losess. Obviously, issues prevailed.

Mr. EHLERS. Mr. Greenwood.

Mr. GREENWOOD. I appreciate that may be a rosier picture than I have drawn, and I don't think you were here for my testimony, Vernon, but PACs tend to give to Members of Congress because they want Republicans to win or Democrats to win. And there is a certain amount of truth to that. But when I ran against an entrenched incumbent in 1992, I called PACs who were business PACs who always supported Republicans and their response was, God, we hope you beat him but we have to give our money to him because he is on the Commerce Committee. That is a reality.

PACs simply went in the direction of whether Republicans or Democrats tend to support their positions. We must assume the subcommittee Chairman must be a super Republican or a super Democrat and the full committee Chairman must be a super-duper Republican or a super-duper Democrat because they sure get a lot more money than the average Republican or Democrat. One might be that it has something to do with access, if not influence.

The CHAIRMAN. The gentleman's time has expired.

We can have another round of questioning if we can go through The first by honoring the clock. I would tell the gentleman from Pennsylvania he missed the Speaker's initial statements in which he said he believed that PAC money followed power and that you could see the change from Democrats to Republicans.

Does my friend from Arizona wish to inquire?

Mr. PASTOR. Yes, Mr. Chairman.

It is interesting because I have had the opportunity to oversee in several countries, mainly Central America, elections and there was always the complaint of the minority party or the opposition party of the state that the state party always had all the perks and benefits. It is interesting, the incumbent will always benefit just by being in office, whether it is franking, or any time that person wants to make a statement, they will get the media, the TV and the radio, to follow them, or newspapers will write about them. Incumbency brings with it some status that provides a benefit. I think as much as we want to do away with franking and all that, I think we will always have that situation.

Maybe things are different where I come from, but at least with the political action committees that I participate with there always has been some type of local presence, meaning that if it is the cotton growers, it is the cotton farmers in Arizona. And in the district I represent, these people are the ones who basically have to say this is someone that can represent me well, does represent me well, and I feel that we can endorse him, we will endorse him in his campaign. This applies to the unions as well.

I have lost support probably from very strong unions because of my positions, especially on NAFTA. I voted for NAFTA because my district aligns with Mexico and I felt it was good for the district. So there were local union members who went to their national boards and said, we are not going to support his campaign.

So at least in my situation there has been a local presence and also the local people have been able to influence whether or not the contributions will come to me.

Since I have been in Congress, one of the arguments that I have heard, and it is mainly from Minority Members and in many cases women who are our peers here in Congress, is that they come from districts or represent districts that have very little wealth or very few individuals that can write the checks in a number such that they can have effective campaigns. They are willing to accept PAC money from those organizations that they are philosophically in tune with. I would like to hear a response from you gentlemen to that argument. If you want to start with Mr. Jacobs and move down, that is fine. I would like to hear your response.

Mr. JACOBS. I think you have my answer in my chief statement. If everybody in the country contributes to the process as in fact

they do to the serving of the process, no private money is allowed in congressional office operations. If you did that, you would have an equalization, and the general public would not only have the opportunity to hear people regardless of whether rich or poor, people like them and give them money, but also would have the reassurance that one of the panelists talked about a moment ago. Whether those contributions influenced a person or not, public perception is clearly that they do, and the public—Caesar's wife was a pretty important aspect to all this.

Mr. PASTOR. Yes.

Mr. PORTMAN. Mr. Pastor, I think this is an interesting issue that has to be dealt with. But I will make a statement that someone who is in a rural district that is poor or poor urban district is not running against someone who represents a rich suburb, in other words, it is always interesting, I hear the argument, there is never focus on the fact that the incumbent's competition faces the same fund-raising challenge.

By moving from PACs to more individual contributions, it is my view if done properly you will still have a lot of individuals giving, more giving from that area. You are going to have people giving because they believe in the candidate one way or the other and you are not going to have the undue influence, I think. If you look at the facts you have to see that they have given to incumbents, whether Democrats or Republicans, they give to incumbents for access, not because they believe in them.

You can argue in the poorer districts you would have better representation and you would still have the same level playing field that you don't have now because the PAC money is coming in from Washington to a district where there is not resources for that challenger.

Mr. PASTOR. The Speaker earlier talked about another factor he is very concerned with, and some of you, I think, talked about it as well. You have people who have the means, who are wealthy, and they go shopping to districts and say, I can win here or there. I will put my money in and I will buy it.

Now, this has happened in some districts where people with money are able to go in there, at least they think they are able to go in there and, with their money, buy the election.

Mr. WHITFIELD. I would say if you eliminate PACs, you end up with a worse scenario. Because in that situation, people in rural districts where it is difficult to raise money anyway, are going to become more dependent upon individuals with wealth. Those people are going to have more influence on the candidates than if you take PAC money where you generally do not know your contributors except the few workers who live in your district.

Mr. KANJORSKI. Can I add something to that?

The CHAIRMAN. Briefly, because the gentleman's time has expired.

Mr. KANJORSKI. Some of us would like to emulate the English system but we forget that system nominates the members of Parliament from a central core. They don't get selected from the constituency.

The second thing is, I have to answer that directly, I would not have been able to run for Congress against a sitting incumbent

Democrat except I was able to finance the campaign myself. It was physically impossible to raise the kind of money to mount a campaign to get access over TV and radio that is necessary to strike the issues to win a primary.

When you talk about minorities and women, certainly very often if they don't have great personal wealth, they may be the best candidate in the world, they will just never get out there. On the other hand, you may have a clinker as a Member but he will be the candidate.

I go back to what Ms. Dunn said, all of us who have tried to solicit candidates, you know how difficult it is at every level of government because no one wants to run who would surely lose. To have the opportunity to win does take money in our position.

The CHAIRMAN. Does the gentlewoman from Washington wish to inquire?

Ms. DUNN. Thank you, Mr. Chairman. I do wish to inquire and to say a special hello to Paul, whose sister is my precinct committee officer in my district in Bellevue.

Mr. KANJORSKI. I am truly bipartisan.

Ms. DUNN. That was a good point.

The CHAIRMAN. His sister hasn't backslid yet? She is still a Republican?

Ms. DUNN. No. She is a Republican.

Mr. JACOBS. Glad you said yet.

The CHAIRMAN. Ever. I stand corrected.

Ms. DUNN. We discussed in talking about PAC contributions the pluses, the minuses; we talked about the correlation. I think Mr. Inglis brought up the correlation between incumbency and PAC donations.

I was interested in Mr. Portman's comments that the Supreme Court has never, really never directly addressed the issue of banning PACs. Is that correct?

Mr. PORTMAN. I believe that is correct. If you look at the seminal decision, *Buckley* v. *Valeo* decision, it does not address it. I would argue by addressing the apparent or real corruption issue, it is a decision that can be used to support the constitutionality of banning at least connected PACs.

Ms. DUNN. I think that is very interesting information, Mr. Chairman, since that is an issue that often comes up, the unconstitutionality of limiting a PAC's contribution unless it is supported by Federal funding of campaigns. So that is one we need to spend some time going into to get at what is really in there.

A couple of issues are intriguing to me. Bundling is one of those. It is a way that organizations are able to direct many, many checks from individuals to contributors. I think that is something that we have to question as we look into means of funding political campaigns in this Nation.

But, Mr. Whitfield, I wanted to ask you a question. I agree with you that one of the major problems in dealing with PACs right now is the perception that people at home have that we sit back here dialing for dollars, huge contributions, $5,000 per election, $10,000 in a two-election cycle, rather than going back home and talking to our constituents where we should be; that the connection is no

longer there, that we are wooed by these huge donations that PACs are able to give.

My approach to that is that you equalize PACs with what an individual can contribute which is what you say in your proposal, but I would bring the PACs down to $1,000 as the individuals are now.

Let me just ask you, how do you—how would you explain to the public, your constituents back home, that you would actually be raising the individual limit of these huge major donors to $3,000 as you limit the PACs to $3,000?

Mr. WHITFIELD. First of all, a lot of people in my district really do not know what a PAC is. They think corporate funds are involved in PACs, which they are not.

But I would simply say that West Vaco, for example, their employees number 2,000 in my district. They have a PAC. They can give $5,000 each. An individual can only give $1,000. So I would simply raise the amount, as you suggested, from $1,000 to $3,000, and I would make the argument that $3,000 is a reasonable amount for an individual to be able to give as long as the PACs cannot give any more than that. I have talked about that a lot throughout my district, and most people really agree with that.

I don't think that this money corrupts necessarily. I think that disclosure is the important thing, whether it is bundling or whatever it is. We have adequate disclosure laws today so that people are aware of where your money is coming from.

Like everybody else, I do not need a Federal law telling me that it is going to be to my benefit to raise as much money in individual contributions in my district as possible. I make an effort to do that.

Ms. DUNN. Thank you.

I think really what we have to do here as we redesign campaign finances, we have to bring the individual into the process to a much greater degree. Earlier before your panel began, we talked about how you could use the tax code to do that. For example, giving some sort of credit as we used to do to donors of $100 or less money.

How in your thinking on this issue, with your bills that address PAC contributions, how would you see that we could successfully encourage more people to be involved on the funding end of things? I am looking at anybody on the panel.

Mr. JACOBS. I would be glad to answer that.

Ms. DUNN. Other than public funding.

Mr. JACOBS. By my system. The public is going to be more interested if they can hear a variety of opinions, and if the law is lobbyist is the gatekeeper to communication, to a considerable extent they are not going to hear that variety because some people don't like what the lobbyists want. Some candidates want to talk about something else.

If you really got in and had these various points of view, I think it would be more attractive to the public. If it is more attractive to the public, the public is more likely to participate, even if you go with private contributions, more likely to get interested, more likely to go vote, more likely to write that $5 or $10 check and undergo the excruciating burden of digging down and getting 32 cents and sending it directly to the campaign of the person the citizen favors.

Mr. KANJORSKI. May I suggest, in the tax credit concept everyone, other than those people on welfare or the working poor that don't pay taxes at all, pays some sort of tax, and if you construct—I give up to $200 tax credits, I did that favor of my Republican friends because you have to recognize there are more higher donors on the Republican side. It would be more work for the Democrats to raise that money. If you tell people you are taking money paid in taxes to the government and directing them to the candidate of your choice, it is a hiatus until you get the three or four months' tax credit between elections. That is not making an onerous contribution on the part of these people.

It would seem to me any reasonable candidate who should stand for Congress would have 500 or a thousand people in his district that he could go and ask them to stand the interest lost for that four, five, six month period until they recoup the money from the Federal Government.

Finally, you want a filtering process. The one mistake we don't want to make is publicly finance anybody who runs for office, because I can give you examples in Pennsylvania. We did that in the judicial system and we started to get 30 and 40 candidates running, for only three spots on the Supreme Court or Commonwealth court, and the persons who drew the first three ballot lines won. You can't run issue elections in judicial rates like this. So we have to have a filtering mechanism, but we have to have accessibility to funds to buy the private sector time and not disturb the TV, radio or newspapers and force them to run political ads or not pay them for it. We are taking on a much larger task than necessary.

The CHAIRMAN. The gentlewoman's time has expired. I believe the gentleman from Michigan had a question he would like to ask.

Mr. EHLERS. Not a question, simply a comment. It was intended for Mr. Jacobs on the first round. I have a comment that concerns your suggestion for free TV. I suspect Abraham Lincoln would not have been able to be elected if it were based on TV contests.

Mr. JACOBS. That is mainly because they didn't have TV. It was easy to get to all the constituents in those days.

Mr. EHLERS. But the other thing, it seems to me the panel identified PACs as a problem and incumbency as a problem. We can solve both in one shot by saying no PACs for incumbents, only for challengers.

The CHAIRMAN. With that, I would like to thank very much the panel both for your testimony and your willingness to come back and begin the process of questioning each other.

If there is a vote immediately following this vote, it will be 10 minutes after the last vote. The committee will stand in recess until 2:20.

[Recess.]

Mr. EHLERS [presiding]. I would like to call the hearing to order.

I apologize for the interruption for a few votes but it is nice that we have now solved all of the problems of the District of Columbia, and we can return to campaign finance reform.

We have a second panel before us. The Chairman of the Committee, Mr. Thomas, has another meeting which requires his attendance. I will be presiding until he returns.

We have, first of all, the Honorable Linda Smith from the State of Washington. And I understand you have decided to share your time somewhat differently. The time limit is five minutes per person. The arrangement you have described is fine so we will proceed accordingly.

I will recognize the gentlewoman from Washington.

STATEMENT OF HON. LINDA SMITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON

Ms. SMITH of Washington. Thank you, Mr. Chairman and other members of the Committee. This is a great opportunity to restore the American people's confidence in this system. I am going to summarize my comments and share my time with Mr. Meehan and give you my complete statement for submission.

It has been clear, listening to the testimony today, that there are a lot of people that agree that special interest money holds an undue influence on the political process. But I think something I want to tell you is this: I helped run the grassroots organizations in our state. People don't believe they count anymore. They believe special interests counts and they don't. We must change this perception.

One way we can do this is by dealing with the influence of Political Action Committees. Earlier this year, Representative Brownback, myself and several freshman reformers, introduced a bill that abolished PACs outright. This was the same position that was advocated by Speaker Gingrich last November on the MacNeil-Lehrer Report. More recently, I have joined a national coalition with Congressman Shays, Meehan and others and we are testifying before you today on a bipartisan bill, H.R. 2566.

This bans PACs and has a fall-back position and we have decided that this is more defensible, but the people want PACs removed. And I would say that again, because I don't believe the American people want a reduction of special interest power. They want an elimination of special interest power.

I ask this committee to resist leaving PACs at all, and I do this for a very clear reason. When I got here, I was amazed at the evening fund-raisers and that we had to talk about them not affecting us even though we were going between votes. I know that it doesn't affect some of you. You have said that. But it troubles me deeply that the impression is that we are taking money while we are voting and that we are holding fund-raisers and getting the money from special interests.

We do know for sure that this process does lock some of us in here. We can get the money easily. It comes to us. The challenges are at home trying to raise it out of people. It gives us a four-to-one advantage in PAC money.

Finally, I would like to close with this: We have to have a bipartisan solution. History has shown that when you start on this and you come out with a partisan solution, that all you do is use it in the campaign year to beat each other up and never accomplish anything.

I would encourage this committee to adopt a bipartisan solution. We have brought you a bipartisan bill. We would ask that you use it or come up with your own, but please don't wait until the next

campaign cycle and work on campaign reform. Do something strong now.

I commend you for taking this very, very difficult issue. And I give the rest of my time to Representative Meehan.

[The statement of Ms. Smith follows:]

TESTIMONY OF CONGRESSWOMAN LINDA SMITH

before the Committee on House Oversight

Hearing on Legislation Concerning the Role of Political Actions Committees in Federal Elections

Thursday, November 2, 1995

Chairman Thomas, Congressman Fazio, and members of the Committee:

Thank you for allowing me this opportunity to come before the Committee to discuss an issue that is so important to restoring the American public's faith in government. As many of you may know, ever since I was drafted into Congress by write in last year, I've been struck with the need to reform the way money is raised in D.C. The American people are convinced that something is seriously wrong with the way special interest money affects the political process. Congress cannot expect confidence in our solutions to the vital issues before us if the American people continue to perceive that special interest money rules Washington, D.C. I commend your efforts in taking the first bold step to examine the current campaign financing system. By doing so, you are demonstrating to the public that Congress cares about the trust of the American people.

The term limit movement came about because of citizens believing that the longer incumbents were in D.C., the less connected they were to people and the more connected they were to special interests. The only way they saw to crumble the power structure built of special interest dollars was to knock it down every 6 years or so.

Without a doubt, most people would agree that special interest money going to incumbents at a 4-1 ratio holds an undue influence on the political process. According to a poll taken in June for Americans Talk Issues Foundation, 70 percent of Americans believe that the government is run for the benefit of special interests, not for the benefit of most Americans. We must change this perception. One way that we can do so is by dealing with the influence of Political Action Committees (PACs).

We have introduced legislation to zero out contributions from PACs. The bill, H.R. 2072, introduced in July with Representative Brownback and other freshmen reformers placed an outright ban on PAC contributions in federal elections. The same position advocated last December by soon-to-become House Speaker Newt Gingrich. On MacNeil/Lehrer, he stated, "it seems to me, that Political Action Committees have grown to be instruments that no longer serve the public interest. They serve special interests. I am very prepared to try to work out something which would zero out Political Action Committees." More recently, I joined Congresmen Shays, Meehan, and Minge in introducing a bipartisan bill, The Bipartisan Clean Congress Act of 1995, that also eliminates PAC contributions, but has a fallback provision in the event that the PAC ban is ruled unconstitutional.

A PAC ban is essential to stop the checkbook lobbying that goes on here. I realize that I take a strong position on the issue of zeroing out PACs -- but I also believe that the American people feel the same way. Undoubtedly, we will face constitutional questions by tackling the PAC issue head on. But we must not let these legal speculations keep us from

presenting a bill to Congress that does as the American people have asked us to do...clean up Congress.

While I am not convinced that a PAC ban would be ruled unconstitutional, I believe it was a good idea to include a fallback provision in the Bipartisan Clean Congress Act. This provision would reduce PAC contributions from the current limit of $5,000 per election to $1,000 and would put an aggregate cap on PAC contributions of 25 percent of the election cycle spending limits.

There will be attempts to keep special interest fundraisers in Washington, D.C. by keeping PAC contributions at some reduced level, such as $2,500 or $2,000 per election. I ask this Committee to resist these attempts and can think of three reasons why such PAC provisions are less desirable. First, the American people do not want simply a reduction of PAC influence -- they want an elimination. PACs tend to remove people from the political process. Once people are removed from the political process, they start believing that their political system has been bought by the highest bidder. Second, if PAC contributions are simply trimmed back, they will surely grow back over a period of time and we will be left with the same problem we have now. Third, by keeping PAC contributions at a reduced level, we would be leaving intact the current fundraising culture that has flourished in D.C. and kept incumbents in power. Referring to the influence of PACs, House Speaker Newt Gingrich said in an interview with David Brinkley earlier this year, "last year 91 percent of all incumbents were re-elected. I think that's frankly too high a re-election rate. I don't think it's good for democracy."

I commend the members of this Committee for having the courage to deal with the difficult issue of PACs in this opening hearing on campaign finance reform. I am sure the Committee will use this hearing as a stepping stone to go beyond the issue of PACs to address overall reform. I recently heard a speaker say handling just part of campaign reform would be like pushing down on a balloon -- the funding will inevitably pop out somewhere else. If we eliminate PAC contributions but allow lobbyists and individuals representing special interests to continue giving one or two thousand dollars to incumbents at the nightly receptions and fundraisers taking place across the street, we do not change the culture of this place. That is why additional measures must be taken to address this special interest money as well. The legislation that Representatives Shays, Meehan, Minge and I have introduced takes aim at the other areas where special interest money will inevitably pop up. I look forward to seeing the Committee examine these other areas in future hearings.

Finally, I would like to close by stressing the importance of a bipartisan solution to campaign finance reform. The American people are fed up with watching Congress play political games with this fundamental reform. Over the past few weeks I have had the pleasure of working with Representatives Chris Shays and Marty Meehan and David Minge on the House side and Senators John McCain, Russ Feingold and Fred Thompson on the Senate side. We have joined together as a coalition because each of us is convinced that we must reform the campaign system in a bipartisan manner. Any reform plan that does not gain bipartisan support is doomed to fail or to be vetoed by the President. Therefore, if we are to pass a campaign reform bill, we are going to have to put some of our differences aside. Groups like United We Stand, Common Cause, Public Citizen and the League of

Women Voters all had different ideas of campaign reform but they managed to forego the "perfect" and work in agreement on a good bill that has been assigned to your Committee. For an example of their support, Common Cause's statement and Ross Perot's letter of support are both included with my testimony. I encourage the able members of this Committee to do the same -- to pass a bipartisan bill out of this Committee that fundamentally changes the culture of fundraising and that can be placed on the President's desk early next year. History has shown us that waiting to pass campaign reform until we have the "perfect" bill or until we are well into the election season will ultimately doom reform efforts. The 104th Congress must do better than that -- we owe it to the American people to restore their faith in government by passing real campaign reform.

FOR IMMEDIATE RELEASE:
Wednesday, October 25, 1995

CONTACT: Jackie G. Howell
Lori Shinseki

STATEMENT OF COMMON CAUSE PRESIDENT ANN MCBRIDE ON INTRODUCTION OF SMITH-SHAYS-MEEHAN CAMPAIGN FINANCE REFORM LEGISLATION

The campaign finance reform legislation announced today by Representatives Linda Smith (R-WA), Chris Shays (R-CT) and Martin Meehan (D-MA) is a critically important breakthrough in the effort to enact tough and meaningful campaign finance reform.

The Smith-Shays-Meehan House bill, along with its Senate counterpart introduced by Senators John McCain (R-AZ), Russell Feingold (D-WI) and Fred Thompson (R-TN) in September, is the first bipartisan campaign finance reform effort in a decade and represents the first time ever that Representatives and Senators have joined together in support of the same campaign finance reform legislation. This is critically important progress in the effort to achieve real reform.

The American people owe a debt of gratitude to Representatives Smith, Shays and Meehan, and Senators McCain, Feingold and Thompson. These Members of Congress have courageously set aside partisan differences, resisted internal pressures and are acting on behalf of the overwhelming majority of Americans who are demanding — in ever increasing numbers — that Congress clean up its campaign finance system and end the influence money scandal that has corroded Washington.

The Smith-Shays-Meehan House bill, like the Senate bill, represents real and effective change. It establishes candidate spending limits; provides reduced-cost broadcast time and mailings for those candidates who abide by the spending limits; dramatically reduces special-interest influence money by restricting PAC contributions, large individual contributions and contributions from

2030 M Street, NW • Washington, DC 20036 • 202/736-5770

lobbyists; and bans soft money and bundling.

Make no mistake, this legislation faces an enormously difficult road in the next few months. There are many in Congress who will do everything they can to kill this reform measure, and there are myriad special interests who have much to lose if the influence money game in Washington is taken away from them.

To push for passage of this legislation, Common Cause is launching a grassroots campaign throughout the country to organize citizens to demand that their Members of Congress cosponsor and vote for these comprehensive campaign finance reform bills.

# # #

Mr. MEEHAN. Thank you very much.

Mr. EHLERS. The gentleman from Massachusetts is recognized.

STATEMENT OF HON. MARTIN T. MEEHAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MASSACHUSETTS

Mr. MEEHAN. Thank you very much, Mr. Chairman and members of the Committee. I want to thank Congresswoman Smith and Congressman Chris Shays for allowing me portions of their time. We have been working. Congressman Shays and Congresswoman Smith and I have been working together on a bipartisan bill, campaign finance reform bill for some time. It is not a perfect bill, but it represents compromises from both sides of the aisle.

Traditionally Democrats have been unwilling to abolish PACs. At the same time Republicans traditionally have been unwilling to go along with spending limits. The truth of the matter is, if we have real campaign finance reform, we have to have both. Our bill does both, limits the overall expenditures to $600,000. It also eliminates PACs. It eliminates bundling. It calls for legitimizing the process of soft money and it holds lobbyists contributions in and caps them at $100 per election cycle.

You know, we have been talking about campaign finance reform on the Hill for a long, long period of time. The cost of running campaigns is going through the roof and the American people demand action. This bill mirrors the bill—the historic bill that was filed in the United States Senate that is picking up support every day, Senators McCain and Feingold's bill. It also limits large contributions to 25 percent of the overall amount.

Day in and day out, Members of Congress are being asked to make very difficult choices, choices about how to balance the budgets, choices about what to do about tobacco, and as long as we have a system of campaign finance that requires Members of Congress to be raising political money 24 hours a day, 365 days a year, we are going to have a system that the American public isn't going to have confidence in.

This bipartisan bill is a bill that I believe both sides of the aisle ought to be able to support. It is extremely important that we not let this bill die as other bills have in conference committee because of the partisanship and the partisan nature that the debate has taken in past years. I would hope that this committee would work and look very seriously at this bill, not only is it a bipartisan bill, it is a bicameral bill.

We are working with the United States Senate right now to get a bill that won't die in conference. Both political parties have been very good with coming up with campaign finance reform bills that die in conference. In this Congress, let's make a difference. Let's get a bill that won't die in conference, that the President will sign, that will result in real reform.

Thank you.

[The statement of Mr. Meehan follows:]

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The Honorable Marty Meehan
Statement before the House Oversight Committee
November 2, 1995

Thank you, Mr. Chairman, for the opportunity to testify before the committee.

I am here today because I have joined with a bipartisan group of members in a sincere effort to limit the flow of special interest money into Washington. In the past, conflicts between the House and the Senate, and the tendency for incumbents from both parties to watch out for their own reelection prospects have stopped repeated efforts to make changes in the way campaigns are financed.

H.R. 2566 represents the first truly bi-partisan campaign finance reform effort in the House in nearly a decade. The Shays-Meehan-Smith bill is a close mirror to the landmark legislation introduced in the Senate by Senators John McCain, Russ Feingold and Alan Simpson.

For the past year, I have been working with Democrats and Republicans, from both the House and the Senate, to put together a comprehensive, bipartisan effort to change the way campaigns are run. And I think we have forged a solid compromise.

H.R. 2566 will go a long way toward creating a fair and open electoral process. PAC's are banned, with a fall-back limit of $1,000 per election and 25% of the aggregate total to reflect a matching cap of 25% on large donatio is. Soft money is legitimatized, bundling is banned, and lobbyist contributions are capped at $100 per election. Provisions are included for candidates running in contested primaries, against wealthy candidates and to counter independent expenditures.

Again, this bill is a compromise. It has spending limits, and a PAC ban; it reigns in soft money spending, and it requires in state fund-raising. The bottom lines is that H.R. 2566 is the most comprehensive, bipartisan, bicameral bill to hit this Congress in over a decade.

I would be happy to answer any questions members of the committee may have.

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The CHAIRMAN [presiding]. Thank you. We haven't had much of an effort to have our bills die in conference because we haven't been in the Majority. Once we start, it won't happen.

I understand there are some folks who have a time pressure on planes and, if that is the case, if the other members of the panel wouldn't mind, we will go first to the gentleman from Michigan, Mr. Smith.

Mr. SMITH of Michigan. Mr. Chairman, thank you.

The CHAIRMAN. That having been said, any written testimony that you have will be made a part of the record and you have five minutes to address the committee in any way you feel would enlighten us.

STATEMENT OF HON. NICK SMITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. SMITH of Michigan. Mr. Chairman, thank you very much. Back in 1979 when I first entered the Michigan legislature, multiclient lobbyists came with envelopes before key votes or after key votes as a very overt means of persuasion.

In the United States Congress, that persuasion is much more subtle but just as real in the minds of individual Americans, and perception becomes reality. It diminishes the opportunity of this body to lead with any legislation that we pass in this country.

Campaign finance reform is very important. Here is my suggestion: You shouldn't leave it up to leadership, the Speaker, task forces or anything else. I would suggest that you consider developing a resolution on how you think we should proceed with campaign finance reform, bringing the different task forces and groups into play, and finalize what comes back to this committee at a date certain.

I appreciate the opportunity to testify. I hope we can move ahead aggressively on this issue, that I think is as important as the question of term limits, in having the respect of the American people.

I would yield the balance of my time to Peter Torkildsen, the gentleman from Massachusetts.

[The statement of Mr. Smith follows:]

Testimony before the House Oversight Committee

Congressman Nick Smith

Campaign Finance Reform

Mr. Chairman

Thank you for the opportunity to testify before committee this morning. When the people elected the first Republican Congress in 44 years last November, they hoped for real change in Washington. Not marginal change. Not cosmetic change but real change.

In 1976, there were only 1100 PACs. By 1992 there were over 4,000. In 1976, PACs donated $52 million to Congressional races in 1992 constant dollars. In 1994, PACs donated $173 million. As the great political reporter Teddy White wrote in 1984 "the flood of money that gushes into politics today is a pollution of democracy."

For too long, members of both parties have had to spend too much of their time fundraising. A balanced budget, Medicare solvency, protecting our citizens against theft and bodily harm, all desperately need our attention.

Yet, too many of us are forced, by a campaign finance system badly in need of reform, to be nice to PAC lobbyists in order to raise money for re-election. As a result, there is a temptation to listen to the special interests that contribute.

I know in my heart that my colleagues and I are good and honest citizens. I agree with former Senator Charles Mathias when he said, "Most of us are honest at all times, and all of us are honest most of the time." But, I also know that there are many people across America who worry about whether the politicians are going to pay attention to their problems or the interests of a well paid lobbyist. Further, the fact that PACs donate overwhelmingly to incumbents reinforces the public's perception that the system is biased towards incumbents and the status quo.

Therefore, it is important that we address these fears. Perception becomes reality in terms of Congress' ability to lead. You can't have effective government without public confidence. That confidence is now lacking.

When I was in the state legislature, I decided that I was just going to say "No" to the PACs and the special interests. As a result, I have never accepted a dime of money from PACs since I first ran for the Michigan state senate. Although I knew that I would always vote the way I felt was right regardless of who donated to my campaign, I also knew that it was equally important that my constituents had no doubts about how much PAC lobbyists might be influencing my decisions.

Refusing PAC money has been easier for me than others, however. I have had the good fortune to receive a very broad range of support from my constituents. Although I know many

other members would like to refuse PAC money, they feel forced to do so by well-financed opponents who accept PAC donations.

My solution to this problem is to simply ban Multicandidate PACs from donating to individual Congressional campaigns. I have authored a bill, H.R. 2446, the PAC Limitation Act, which would do this. It would also require that Congressional candidates raise 50% or more of their contributions from individual donors who reside in the district.

By requiring candidates to raise 50% or more of their money from individual donors within their own district, they will be forced to spend time in their districts talking with their own constituents rather than in Washington talking to lobbyists and special interests.

Mr. Chairman, members of Congress should be beholden to the people of their district and of the United States. They should not be beholden to lobbyists and special interests. That is why I have introduced H.R. 2446 and why I am co-sponsoring other legislation that addresses other aspects of the same problem as well. I am committed to making sure that the American people know that their representatives in Washington are working on their business, and not anyone else's.

Mr. TORKILDSEN. Massachusetts.
Mr. SMITH of Michigan. Massachusetts. Sorry.
The CHAIRMAN. The gentleman from Massachusetts.

STATEMENT OF HON. PETER G. TORKILDSEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MASSACHUSETTS

Mr. TORKILDSEN. Thank you, Mr. Chairman, members of the Committee. Because of a time conflict, I will be very brief and submit a longer statement for the record. I have filed two bills dealing with campaign finance reform. The first one is the one I am going to address today. It simply eliminates PAC contributions to House and Senate candidates.

I think the time has come for us to take that very bold step. If we can do nothing else, at a minimum we should reduce contributions from PACs from 5,000 to 1,000 per election, but I would hope the committee would take the needed and bold step of banning PAC contributions altogether.

If you just look at the statistics, they are staggering. Fifty-five percent of candidates for the House received more than half their funds from PACs in the last election. Some Members receive over 70 percent of their funds from PACs. 20 years ago, there were only 600 registered PACs. Now there are over 4,000. And in the last election cycle, nearly one-third of all contributions to House and Senate candidates came from Political Action Committees.

I think when you have individual contributions, people can see those have to be reported. That has to be continued. Individuals should be required to raise money from individuals. So I would hope this committee looking at the broader campaign finance reform package and I have a bill on that—we can discuss at another time—would include that very important step of eliminating PAC contributions.

I think that this more than any other step will help restore confidence in how all of us seek election and reelection and allow us to really act in the public interest.

With that, I would be happy to yield back whatever time I have not consumed.

[The statement of Mr. Torkildsen follows:]

STATEMENT OF

CONGRESSMAN PETER G. TORKILDSEN
on Campaign Finance Reform
(HR 2447 and HR 2471)

before the Committee on House Oversight
November 2, 1995

Thank you, Chairman Thomas, Ranking Minority Member Fazio, and the entire Committee on House Oversight for holding this first in a series of hearings to focus on campaign finance reform.

Congressional reform, including campaign finance reform, is a major step toward restoring people's confidence in Congress. We have addressed many important reform issues so far in the 104th Congress -- cutting congressional spending, eliminating committees, reducing committee staff by one-third, and passing the Congressional Accountability Act, just to name a few. As the co-chair of the Freshman Republican Reform Task Force in the 103rd Congress, I'm pleased one of the most important reform issues this House will face this year is now on the table: campaign finance reform, and particularly, reforming rules governing PAC contributions.

As you are aware, **I am the sponsor of two campaign finance reform bills** this Congress including one bill to eliminate PAC contributions and another bill to reduce PAC contributions to $1000, as part of a larger campaign finance reform package.

For this hearing, I will focus on PACs.

The proliferation of PACs in recent years is staggering:

- Fifty-five percent of the candidates for the House received more than half of their total funds from PACs.
- Some House colleagues receive over 75 percent of their total funding from PACs.
- Today, 70 percent of PAC contributions still go to incumbents.
- Twenty years ago there were only 600 registered PACs, today there are over 4000.
- In the last election cycle, nearly one-third of all contributions received by House and Senate candidates were from PACs.

As one of only two dozen Members who refuses all PAC contributions, I believe we must eliminate PAC contributions as a necessary first step in campaign finance reform.

My bi-partisan proposal to ban PAC contributions, HR 2447, is currently co-sponsored by five colleagues, Congressman Sanford, Greenwood, Horn, Inglis, and Jacobs. It **seeks to eliminate multi-candidate political committees from contributing to House and Senate candidates**.

I am also a sponsor, with Congresswoman Fowler, of a comprehensive campaign finance reform package, **HR 2471**, which seeks to **reduce PAC contributions to $1000**, or the same level as personal contributions. If elimination of PAC contributions is not possible during the 104th Congress, I would support a reduction to $1000 as a good first step. The Torkildsen/Fowler proposal also addresses such other reform priorities as in-state financing, soft money, and bundling of contributions, among others. I look forward to participating in future Oversight hearings on these crucial campaign finance reform items.

Campaign finance reform is one of my top priorities. As co-chair of the Freshman Republican Reform Task Force, I introduced a comprehensive campaign finance reform package with Congresswoman Fowler, which garnered some twenty co-sponsors. Although I have limited myself to a maximum of six terms, I would be much happier to see the House pass real campaign finance reform sooner rather than later in my career -- preferably this year, and preferably a bill which includes elimination of PAC contributions as one of its key provisions.

Again, I thank you Chairman Thomas and Congressman Fazio, and the entire Committee for the opportunity to testify on my campaign finance reform bills today.

The CHAIRMAN. I thank the gentleman.

I would tell him as well as others that earlier today we indicated that this was obviously the first series of hearings dealing with PACs. We will look at the court decision to allow individual—personal contributions to be unlimited, the question of independent expenditures, political parties and a number of other areas.

And some of our friends may want to come back and join us when another important part of a broader based piece of legislation that they may have introduced is focused on in a specific hearing.

Mr. TORKILDSEN. Thank you.

The CHAIRMAN. The gentleman from Tennessee.

STATEMENT OF HON. ZACH WAMP, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TENNESSEE

Mr. WAMP. Thank you, Chairman Thomas, for calling us here to discuss what I think is one of the most important challenges facing all the Members of the 104th Congress, especially the new Republican Majority.

I come here as an expert today in one specific area of campaign finance and that is how you run a campaign without a dime of PAC money. I have done it twice, once narrowly losing to a long-time incumbent and another time battling through a tough primary and a tougher general election, each time refusing to take any PAC money even though my opponents had the advantage of using PAC dollars.

My election is proof that it can be done, but that doesn't mean that I have lost my commitment to changing our system. Beyond the tilt that PACs put in the electoral process, there are at least two other evil influences, the perception that our elected leaders can be bought and the reality that big money special interests do in fact affect the process and outcomes in government here.

Since arriving in Congress this year, I have seen that some of our constituents' worst fears may actually be true. Even our freshman class of the 104th Congress, which I consider to be the purest, most worthy group of leaders elected to this body in my lifetime, is not immune from the bad influence of PACs. I believe that PACs are the Achilles' heel of this freshman class' effort to reform business as usual in Washington.

I have taken this on as a personal challenge and I ask the members of this committee to join me to reduce the influence of PACs in our election process so that newly elected Members don't have to feel that their first duty of office is to have a PAC fund-raiser so that legitimate challengers can still have a chance to make our elections competitive, so that special interests don't even think that they can buy votes, and so most importantly of all the people of our country can be assured that their elected representatives represent them and no one else. Our Members deserve to have the public trust, but we will enjoy that only when we make real strides to reform the election process.

Here is what I propose in my bill, the Wamp Congress Act of 1995. First, reduce the PAC limit from $5,000 to $2,000 per election, bringing it into line with individual contributions by raising the personal limit from $1,000 to $2,000 per election.

Secondly, require that a majority of the candidate's money, 50 percent plus $1, be raised from individual contributors residing in that candidate's home state. These two simple, straightforward reforms will do wonders to bring the election process back home, because no longer can a candidate ignore his constituents by holding fund-raisers out of state in Washington, D.C. or other financial centers, gaining tremendous leverage over the individual contributors back home.

The individual limit, as the Speaker said earlier today, was set 21 years ago at $1,000, and if it were indexed for inflation would be more than $2,800 today. You can more than justify the increase to $2,000. My bill restores some of that value but, more importantly, makes PACs and individual contributors equal under the law.

The majority in-state requirement further limits the influence of outside special interests by acting as a floating cap on what a candidate can raise from outside sources. Every dollar must be matched at least one for one from an individual contributor back home.

My bill enjoys the support of more cosponsors, 63, than any other campaign finance reform measure Congress has considered in a number of years. The recent focus that this issue has received because of the Majority Leader's press conference last week on reform has caused an increased interest in this bill among our colleagues. But this support was not late in coming. I got 50 cosponsors in the first two weeks my draft was available, and I have spent months talking to my colleagues about this issue from the very first week I got here.

I considered at least 17 options for fixing our campaign system and boiled it down to the two most significant reforms that would both make a difference and build a majority of support.

I applaud the work of Congressman Hoekstra and the Speaker's task force in identifying all the possible options. I have been participating with them very actively. We must move a good bill through Congress and on to the President in the 104th Congress. For too long we have not passed any campaign reform at all. Yes, we should ban PACs, but let's face it, that is not very likely.

I am also a cosponsor of other bills introduced by my colleagues to ban PACs, but we must be realistic. I know that a ban might not pass a Supreme Court challenge, and I know that PAC trying to get a majority of both houses to agree to a PAC ban may leave us with nothing to show for our efforts.

Mr. Chairman, the road to heck was paved with good intentions, but good intentions have left us for 21 years with nothing to show in campaign finance reform. Let's pass something this Congress, and I respectfully submit to you, Chairman Thomas, that my bill has the necessary support to make it to the Floor and pass this Congress.

With your guidance and the expertise of this committee, I believe we can make this the best campaign finance reform legislation to come out of Congress.

Thank you again for allowing me this time.

[The statement of Mr. Wamp follows:]

Testimony of the Honorable Zach Wamp
Committee on House Oversight - November 2, 1995
The WAMP CONGRESS ACT (HR 2148) and PAC Reform

Thank you, Chairman Thomas, for calling us here to discuss what I think is one of the most important challenges facing all the Members of the 104th Congress, and especially the new Republican majority. I come here as an "expert" in one specific area of Campaign Finance, and that is "How to run a campaign without taking PAC money." I've done it twice: once narrowly losing to a long-time incumbent, and another time battling through a tough primary and a tougher general election, each time refusing to take a dime of PAC money even though my opponents had the advantage of using PAC dollars against me. My election is proof it can be done, but that doesn't mean that I have lost my commitment to changing our system of campaign finance -- reducing the influence of PACs and leveling the playing field.

But beyond the tilt that PACs put in the electoral process towards incumbents, there are at least two other evil influences: the perception that our elected leaders can be "bought" and the reality that big money special interests do, in fact, affect the process and outcomes in government here. Since arriving in Congress this year, I have seen that some of our constituents' worst fears may be true. . . .

Even our freshman class of the 104th Congress, which I consider to be the purest, most worthy group of leaders elected to this body in my lifetime, is not immune from the bad influence of PACs. I believe that PACs are the achilles heel of this freshman class's effort to reform "business as usual" in Washington. I've taken this on as a personal challenge, and I ask the Members of this committee to join me, to reduce the influence of PACs in our election process so that newly elected members don't have to feel that their first duty of office is to have a PAC fundraiser, so that legitimate challengers can still have a chance to make our elections competitive, so that special interests don't even think that they can buy votes, and so most importantly of all, the people of our country can be assured that their elected representatives represent **them** and nobody else. Our Members deserve to have the public's trust but will enjoy that only when we make real strides to reform the election process.

Here's what I propose in my bill, the Wamp Congress Act of 1995 (HR 2148): (1) reduce the PAC limit from $5,000 to $2,000 per election, bringing it into line with individual contributions by raising the personal limit to $2,000 per election. (2) Require that a majority of a candidate's money -- 50% plus one dollar -- be raised from individuals residing in that candidate's home state. These two, simple, straightforward reforms will do wonders to bring the election process "back home" to the voters.

How? Because no longer can a candidate ignore his constituents by holding fundraisers out of state, in Washington, DC, or other financial centers, gaining tremendous leverage over the individual contributors back home. The individual limit was set at $1,000 over 21 years ago, and if indexed for inflation, that amount would be worth over $2,800 today. My bill restores some of that value but more importantly, makes PACs and individual contributors equal under the law. The majority-in-district requirement further limits the influence of outside special interests by

acting as a floating cap on what a candidate can raise from outside sources: every dollar must be matched at least one-for-one by an individual contributor back home.

My bill enjoys the support of more co-sponsors than any other campaign reform measure Congress has considered in quite a number of years. (63) The recent focus that this issue has received because of the Majority Leader's press conference last week on reform has caused an increased interest among our colleagues in my bill. But this support was not late in coming. I got over 50 co-sponsors the very first two weeks my draft was available. And I spent months talking to my colleagues about this issue, from the very first week we got here in January and convened a working group before the President's State of the Union message. I considered at least 17 options for fixing our campaign system, but in the end, I identified the two most mainstream, most supported, and most significant reforms that would work both to make a difference and to build a majority of support. I applaud the work of Congressman Hoekstra and the Speaker's Task Force in identifying all the options we have. I have been participating with them very actively in pushing for this agenda to get on the front burner and have already spoken to most of my freshman colleagues and many other Members one-on-one since January about this issue. I feel my bill captures the middle ground on this issue. We must move a good bill through Congress and on to the President in the 104th Congress. For too long, we have not passed any campaign reform legislation at all.

Yes, we should ban PACs, but let's face it -- that is not very likely. I am also a co-sponsor of other bills introduced by my colleagues to ban PACs outright, but we must be realistic. I know that a PAC ban might not pass a Supreme Court challenge on First Amendment grounds, and I know that trying to get a majority of both houses of the 104th Congress to agree to a PAC ban may leave us with nothing to show for our efforts. Mr. Chairman, they say "the road to *heck* was paved with good intentions": but good intentions have left us with 21 years of no significant improvements in our campaign finance laws. Let's pass something this Congress. I believe that my bill, the Wamp Congress Act of 1995, is a significant step that we can achieve in the next few months.

I respectfully submit to you, Chairman Thomas, that my bill has the necessary support to make it to the floor and pass this Congress. With your guidance and the expertise of this committee, I believe we can make this the best campaign finance reform legislation to come out of Congress. Thank you again for allowing me the time to present my views.

The CHAIRMAN. Thank you very much. I will tell the gentleman that the road to heck is spelled differently in different states. Apparently in Tennessee it is spelled H-E-C-K.

Mr. WAMP. The point is well taken, Mr. Chairman.

The CHAIRMAN. I will also tell you that earlier today, and I invite everyone to take a look at the testimony of both the Speaker and the Minority Leader, who asked us to get outside of the usual lines that we draw when we talk about campaign finance and look at it in a much broader way society-wide, as a matter of fact, and not always directly in campaigns but in other areas. It was a lot of food for thought for the committee and, I think, everyone who is interested in this area.

The gentleman from Illinois, Mr. Poshard.

STATEMENT OF HON. GLENN POSHARD, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. POSHARD. Mr. Chairman, thank you for allowing me to appear before your committee. I will just share an anecdotal experience with you, I guess, with respect to my views on the PACs.

When I ran my first campaign for Congress eight years ago, I went through, I think, the same experience that most freshmen go through. The national party sets you up with meetings out here with the various PACs and special interest groups and you come out and meet with them and ply your wares, so to speak. You either explicitly or implicitly agree with their agenda or you don't agree with it.

Many times, in my experience, eight years ago, I don't know how it works today, but they would ask you to sign their questionnaire so that they could come back later and say, well, you know his signature is on this saying he would be one way or another on this particular issue. And I won my election eight years ago and came out here as a freshman and in the course of that campaign season, having gone through the things that I just described as most people do, I had made basically my stance very clear on a lot of issues.

I mean, that is why you get the support from the special interest groups. They don't give you their support, if you tell them you don't agree with their issues. And when you are going through that initial campaign season, as all of us know, you have a very parochial viewpoint of the world, mainly it is formed around your own district and the awareness you have of the issues there and when you get out here, and the bills are assigned to your committee, and you listen for six months to the testimonies on a particular issue, that comes from all over this country, from all kinds of professional groups, it is very possible that your views on any one given issue may very well change.

That happened to me on several occasions, and I found myself going to the Floor of the House time and time again, being literally torn up inside from the position that I had established with respect to my interviews with the PACs and the special interests on their issues and my now changing views because now I am beginning to see that issue from a broader national perspective.

So many times I went to the Floor of the House with a war going on in my guts. I had given my word. I had even signed questionnaires saying this is where I stand on this issue, and by the time

subcommittee and full committee and debate on the Floor ended, I really wasn't there anymore. And I remember many times walking over to the Floor of the House with that war going on in my guts thinking to myself, now what in the world am I going to do here? I gave these people my word. They gave me their money. Some of them gave me five, maybe $10,000, and they didn't have 50 people in my district. They were national PACs.

Am I going to keep my word to them or am I going to make this decision in light of the broader picture now that I have come to believe in as a result of what I have seen here in the national Congress? And you just never got past the battle in your inside.

I think that is the influence and it is money that is the underpinning of that commitment. It wasn't that they had so many members back in my district that I feared their votes if I didn't go along with keeping my word. It was the idea that I needed two or $300,000 to run a campaign because I so feared somebody coming out in the last two weeks of my campaign and bashing me around with negative advertisement, if I didn't have money in the bank to respond, I would lose. Money is the security blanket. Every one of us here know that.

I don't know how we are going to do this, but I know in the first few months that I was here, I made the decision I did not want to contend with the war any longer, and so I haven't taken any PAC monies for seven years. Every year I have sponsored a bill to eliminate PACs entirely. I have kept my individual contributions at half of what the law allows, $500, and I have never sent out a newsletter because I believe that is a superior incumbent advantage that we use politically. So I have sponsored legislation from the first time I have been here to accomplish those three things.

I am glad to be an original cosponsor of the bipartisan Clean Congress Act. I applaud the Members here at this table for what they have done. But we have a problem here, a problem that impacts upon our ability for independent thought, and I just think that the money is overwhelming with respect to its influence and that we ought to do whatever is necessary to curb that.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Glenn.

[The statement of Mr. Poshard follows:]

STATEMENT OF CONGRESSMAN GLENN POSHARD

COMMITTEE ON HOUSE OVERSIGHT

CAMPAIGN FINANCE REFORM

NOVEMBER 2, 1995

MR. CHAIRMAN, THANK YOU FOR HAVING THIS HEARING AND FOR ALLOWING ME THE OPPORTUNITY TO PARTICIPATE.

I URGE THE COMMITTEE TO MOVE LEGISLATION WHICH WILL REDUCE THE INFLUENCE OF MONEY IN THE POLITICAL PROCESS AND RETURN US TO THE MODEL OF A CITIZEN LEGISLATURE WHICH THE FRAMERS INTENDED.

IN 1988, I RAN FOR ELECTION AND ACCEPTED PAC MONEY TO FINANCE MY CAMPAIGN. MY EXPERIENCE WITH THE CAMPAIGN FINANCE SYSTEM WAS ROOTED IN THE ILLINOIS STATE SYSTEM ... WHERE THE CONNECTION BETWEEN CAMPAIGN DONATIONS AND PUBLIC POLICY WAS MUCH LESS PRONOUNCED.

UPON ARRIVING IN WASHINGTON, I FOUND MYSELF CONFLICTED BETWEEN THE MERITS OF LEGISLATION AND THE POSITIONS OF GROUPS FROM WHICH I HAD ACCEPTED DONATIONS. AND AFTER BEING TOLD THAT MY GOAL WAS TO RAISE $2,000 A DAY IN CAMPAIGN DONATIONS SO THAT I COULD KEEP THIS JOB, I DECIDED IT WAS TIME TO MAKE A BREAK WITH TRADITION.

SO I RETURNED TO MY OFFICE AND INFORMED MY STAFF THAT I WOULD NO LONGER ACCEPT PAC MONIES. THE JOKE WAS THAT THEY WOULD ALL NEED TO GET THEIR RESUMES IN ORDER -- THAT WAS CERTAINLY THE CONVENTIONAL WISDOM.

I HAVE BEEN CHALLENGED IN EVERY GENERAL ELECTION AND HAVE ALSO SURVIVED A HIGHLY COMPETITIVE PRIMARY AGAINST ANOTHER MEMBER OF THE HOUSE AS A RESULT OF REDISTRICTING. AND WE'VE MANAGED TO RUN RESPECTABLE CAMPAIGNS ON THE FOUNDATION OF VOLUNTEER SUPPORT AND OLD FASHIONED HARD WORK.

MR. CHAIRMAN, I BELIEVE WE CAN TAKE SPECIFIC AND SIGNIFICANT STEPS TO REFORM OUR CAMPAIGN SYSTEM.

I PROPOSE WE ELIMINATE POLITICAL ACTION COMMITTEE DONATIONS, OR IF THAT IS FOUND UNCONSTITUTIONAL, REDUCE THE AMOUNT PACS CAN CONTRIBUTE. WE SHOULD ALSO LOWER THE ALLOWABLE LIMIT FOR INDIVIDUAL DONORS.

I SUPPORT PROVISIONS, AS YOU DO, TO REQUIRE THE MAJORITY OF A CANDIDATE'S FUNDS TO BE RAISED FROM THE DISTRICT THE CANDIDATE HOPES TO REPRESENT.

I PROPOSE REDUCING THE FRANKING BUDGET AND ELIMINATING NEWSLETTERS TO LESSEN THE ADVANTAGE OF INCUMBENCY.

AND I STRONGLY SUGGEST WE SHORTEN THE CAMPAIGN SEASON -- ONLY THE PROFESSIONAL CAMPAIGN INDUSTRY BENEFITS FROM LONG AND EXPENSIVE CAMPAIGNS. AS A LEGISLATIVE BODY, OUR FOCUS SHOULD BE ON THE JOB AT HAND. FOR CHALLENGERS, A SHORTER SEASON MEANS THAT SOMEONE COULD REASONABLY TAKE LEAVE FROM THEIR JOB IN ORDER TO CAMPAIGN FOR OFFICE.

The CHAIRMAN. The gentlewoman from Ohio, Ms. Kaptur, with an international perspective, I believe.

STATEMENT OF HON. MARCY KAPTUR, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Ms. KAPTUR. Thank you, Mr. Chairman, and Members of the Committee.

I am going to focus on a bill that I introduced first in the 102d Congress, but let me, just in the way of opinion at the beginning, indicate that I have another set of measures that I personally prefer compared to others that have been introduced.

One is a measure that I have introduced that would literally amend the constitution to permit the Congress to set Federal campaign spending limits, and also for States and localities to do that in our various States. I think that is the cleanest way to do it. It is the one I am most comfortable with and then companion legislation that has been sponsored here in the House to, as a condition of granting licenses over the public airwaves, grant candidates free time.

Now, that is where I am the most comfortable. I know that others have other measures that try to somehow weave their way around the various court cases and so forth, that deal with campaign spending, but I really think this has gotten way out of hand, and I think that though I am not one to amend the Constitution every other day, I really don't see a cleaner way of getting at this problem of putting a lid on spending.

I find it incredible that people here are raising ten times more money than the job pays. And it is completely wrong. The bill I come before you on today is H.R. 2499, as I mentioned, originally introduced in the 102d Congress. Our office is really not a "Johnny Come Lately" to this issue, but I want to focus today on the influence of foreign money on our campaigns.

As you know, the law does not permit foreign nationals to contribute to U.S. political campaigns. And that includes foreign governments, foreign political parties, foreign corporations, foreign associations, foreign partnerships, individuals with foreign citizenship, and immigrants not possessing a Green Card.

However, every year foreign interests are spending millions and millions of dollars to influence our political process. This money comes in the form of PAC contributions from foreign controlled corporations or their trade associations. Foreign controlled PACs contributed over $3 million just in the 1992 cycle alone, and today in The Washington Post, at least four of those corporations are listed as massive givers of what is called soft money, Brown & Williams, a tobacco corporation, British Petroleum, Ciba-Geigy and Glaxo, Incorporated. So this is a problem that is not small in nature.

The amounts they are giving are well over $250,000 for some of the individual ones. The issue of foreign influence on U.S. elections is a serious one, and I believe that just as foreign nationals are prohibited from contributing to our campaigns, so should PACs that are controlled by foreign corporations and trade associations that they have formed also be barred.

Further, our bill recognizes that no coherent system exists today to track the millions that are currently being spent by these PACs

on the lobbying before this government. The data system that is available is truly disjointed and our bill, which we call the Ethics in Foreign Lobbying Act, would also make this process more transparent and accountable.

It would bar all foreign contributions to U.S. political campaigns, including PAC contributions, and would make the disclosure of related expenditures available and visible at a central source by establishing a clearinghouse for data that is currently collected but scattered among various government agencies, including the FEC and the Department of Justice.

The U.S. is one of the very few countries to allow foreign interests to contribute to campaigns. Most of our major trading partners, including Japan, Mexico, China, Thailand, et cetera, all strictly prohibit foreign campaign contributions. However, because of a loophole in the current law, business entities that are organized under U.S. laws and maintain their principal place of business in the United States are not classified as foreign principals under Section 611(b) of the Foreign Agents Registration Act, which is the governing act.

The result is that currently, American subsidiaries of foreign-owned companies or trade associations may operate PACs. Some of the names are very familiar to us, including the ones that I have already read, and additionally Toyota, Shell Oil, British Petroleum, the Bank of Tokyo, etc.—and these interests all exert influence on our election process.

I believe the current system is a very confusing one whereby it is illegal for foreign nationals to contribute to our elections, but foreign-controlled or owned corporations, subsidiaries and trade associations can do so.

Our bill would prohibit campaign contributions from PACs sponsored by corporations that are more than 50 percent foreign-owned, and would prohibit such contributions by trade associations that derive 50 percent or more of their operating funds from foreign corporations, and it would set up a complete data collection and clearinghouse system.

The bill requires no new reporting, Mr. Chairman, and members of the committee, and I thank you for the opportunity to testify. I will provide ample materials supportive of this position for the record.

Thank you.

The CHAIRMAN. I thank the gentlewoman. If you are able to stick around, I would love to ask some questions during the question period.

[The statement of Ms. Kaptur follows:]

REPRESENTATIVE MARCY KAPTUR
TESTIMONY BEFORE THE COMMITTEE ON HOUSE OVERSIGHT
ON THE ROLE OF POLITICAL ACTION COMMITTEES IN FEDERAL ELECTIONS
November 2, 1995

Mr. Chairman and distinguished Members of the Committee, I appreciate the opportunity to appear here today to discuss H.R. 2499, the Ethics in Foreign Lobbying Act of 1995. I ask that this bill be incorporated into your broader campaign finance reform efforts.

As you well know, foreign citizens cannot contribute to U.S. political campaigns. Yet every year, foreign interests spend millions of dollars to influence the U.S. political process. This money often comes in the form of PAC contributions from foreign-controlled corporations or their trade associations. Foreign-controlled PACs contributed an estimated $3.1 million to Congressional campaigns in the 1992 cycle alone, and when the 1994 final figures are available, they are likely to be even higher. As you go about the work of reforming the system by which campaigns in the U.S. are financed, which I think is essential, I hope that you will not overlook the important issue of foreign influence on U.S. elections. Just as foreign individuals are prohibited from contributing to U.S. campaigns, so should PACs controlled by foreign corporations and their trade associations also be barred.

Currently, we have no coherent system in place to track the millions spent by foreign interests and their PACs on lobbying the U.S. government, and the disjointed data collection system that we do have provides a veil of secrecy about how and where foreign interests spend their money. My bill, H.R. 2499, the Ethics in Foreign Lobbying Act, would make this process both more transparent and more accountable. It would bar all foreign contributions to U.S. political campaigns, including foreign PAC contributions, and would make the disclosure of related expenditures available and visible at a central source by establishing a clearinghouse for data that is currently collected, but scattered among various government agencies including the FEC and Department of Justice.

While contributions by non-citizens to U.S. political campaigns are already prohibited by law, foreign companies and trade associations currently contribute to American campaigns and influence our political system through the establishment of PACs here in the U.S. using the cover of American subsidiaries. This clearly contravenes Congress' intent in prohibiting the participation of foreign nationals in the election process.

Background

The U.S. is one of very few countries to allow foreign interests to contribute to its campaigns. Most of our major trading partners -- for example, Japan, China, South Korea, Thailand,

Malaysia, and Mexico -- all strictly prohibit foreign campaign contributions.

In the interest of protecting our sovereignty and maintaining a political system that reflects the will of the American people, the U.S., since 1938, has attempted to restrain the ability of foreign governments, individuals, organizations, and corporate entities to influence our domestic political system. By amendment, first to the Foreign Agents Registration Act (FARA, 22 U.S.C. 611 et seq.) and, later, to the Federal Election Campaign Act (FECA, 2 U.S.C. 441 et seq.), the U.S. has sought to prevent campaign contributions and expenditures by foreign interests. You can well imagine the inordinate influence such contributions might have in certain communities across this land where non-U.S. interests may seek to exert undue influence.

A "foreign principal" is defined in section 661(b) of the FARA to include:

> 1) a government of a foreign country and a foreign political party;
> 2) a person outside of the United States who is not a citizen; and
> 3) a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country.

Currently, federal law purports to prohibit direct or indirect contributions by foreign nationals in U.S. elections. Section 441e of the Federal Election Campaign Act (FECA) states:

> It shall be unlawful for a foreign national directly or through any other person to make any contribution of money or any other thing of value, or to promise expressly or impliedly to make any such contribution, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or for any person to solicit, accept, or receive any such contribution from a foreign national.

This provision was enacted in response to longstanding Congressional concern over foreign influence in American elections. However, because of a loophole, business entities that are organized under U.S. laws and maintain their principal place of business in the United States are not classified as "foreign principals" under section 611(b) of the Foreign Agents Registration Act (FARA). The result is that **currently, American subsidiaries of foreign-owned companies may operate PACs** -- the only restriction being that the PAC cannot solicit funds from foreign nationals or permit them to be involved in the policy-making decisions of the PAC. As you well

know, many of the largest foreign multinational corporations and financial institutions in the world have U.S.-based subsidiaries -- including Toyota, Shell Oil, British Petroleum, and the Bank of Tokyo -- and in fact, each of those organizations contributed to U.S. campaigns through their American subsidiaries during the 1992 election cycle. Through the creation of these foreign-sponsored PACs, foreign companies assert their influence on the U.S. election process.

The administration of the FECA provisions has created a confusing system whereby it is illegal for individual foreign nationals to make political contributions, but foreign-controlled or foreign-owned corporations, subsidiaries, and trade associations can contribute and expend funds to influence U.S. elections. The FEC, through its advisory opinions, has twice voted 4 to 2 to exempt PACs representing U.S. subsidiaries of foreign-owned or controlled corporations from the law's prohibitions, as long as the PACs are funded and operated by Americans. The FEC has asked Congress to enact legislation clarifying this issue, but we have not yet done so. I submit that it is time we do.

H.R. 2499, The Ethics in Foreign Lobbying Act of 1995

My bill, H.R. 2499, would prohibit campaign contributions from PACs sponsored by corporations that are more than 50 percent foreign-owned, and it would prohibit contributions from PACs sponsored by trade associations that derive 50 percent or more of their operating fund from foreign corporations.

Some would consider the data collection and clearinghouse responsibilities section of our bill to be the most important aspect of the bill, because it currently is so difficult to identify activities of foreign nationals and corporations. There are many **shortcomings and omissions with the current reporting system** because the necessary data is not collected or compiled in one place.

The bill requires no new reporting. It would only add an extra line to the Statement of Organization that is currently required to be filed with the FEC by PACs. PACs controlled by corporations must state the percent that the corporations are foreign-owned, and PACs sponsored by trade associations must state the percent of their operating fund which is from foreign-owned corporations. In addition, it requires that all other agencies that collect data on foreign campaign contributions, foreign agents, and any testimony before the Congress regarding the interests of a foreign principal, be sent to the FEC.

The timing requirement for reporting (quarterly) conforms with the quarterly reports required in the 1946 Foreign Lobbying Act. The reporting requirements place the burden of reporting the percent of foreign ownership on the PACs themselves, with penalties for noncompliance.

Finally, the GAO's July 1990 report: Foreign Agent Registration: Justice Needs to Improve Program Administration concluded that the Foreign Agents Registration Act is not being properly implemented at the Department of Justice. A previous report recommended legislative authority to require written notification to the Justice Department of all exemption claims prior to any agent activity. H.R. 2499 does this in section 6 by amending the Foreign Agents Registration Act attorney exemption clause to require registrants to file an affirmative request in order to be exempted. Currently an attorney can exempt himself/herself without requesting an exemption.

In addition, the Act amends FARA by changing the reporting period from 6 months to calendar quarters, which addresses GAO's concerns about the lack of timeliness of the filing of the reports. GAO was further concerned about the lack of fulfilling the act's goal of providing the public with sufficient information on foreign agents and their activities. The creation of the clearinghouse addresses this concern.

While I know that the Committee has limited the scope of today's hearings to issues related to the role of Political Action Committees, I would like to at least mention that in addition to H.R. 2499, I have also introduced H.J.Res. 114, a Constitutional amendment that would, for the first time, allow Congress and the States to enact reasonable limits on campaign spending in federal, state and local elections, ending what I consider to be the current practice of allowing elections to be bought by the highest bidder. In addition, I have introduced H.R. 2498, the FACE-IT bill, which would close the revolving door that currently exists between government service and foreign lobbying.

Finally, let me say that I strongly support the efforts of this Committee and thank the Members of the Committee for holding hearings on this issue, which I believe has been too long neglected. The time has come to stop talking and take some affirmative steps toward restoring the faith of the American people in our political process, and these hearings are an important first step. Our citizenry wants to know that its elected representatives are acting in the best interests of America rather than at the beck and call of special interests. Let's tell America that foreign PACs will no longer be permitted to purchase favorable influence with America's lawmakers.

For all of the reasons mentioned, I strongly believe that it is in the best interests of the U.S. electoral process not to allow foreign PACs to contribute to our campaigns, and I encourage you to incorporate H.R. 2499 into your reform effort to limit the influence of foreign-controlled PACs on our political system. Thank you.

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Foreign PACs break record

Clinton weighs Foley for State

By Albert Eisele

Speaker of the House Tom Foley has emerged as one of four leading candidates to replace Warren Christopher as secretary of state after the November elections, according to sources in the Clinton administration and on Capitol Hill.

Other leading candidates in President Clinton's quiet search for a new head of his foreign policy team include former Vice President Walter Mondale, now U.S. ambassador to Japan, Treasury Secretary Lloyd Bentsen, and retired Gen. Colin Powell, the former chairman of the Joint Chiefs of Staff who helped negotiate a peaceful settlement of the crisis in Haiti. .

"I'd have bet even money on Foley or Mondale last week," said an administration official when asked about persistent rumors that Clinton has reluctantly decided to replace Christopher. "But that was before Haiti, and I'd have to say Colin Powell looks awfully good right now." The official said that Bentsen, who has won Clinton's confidence for his steady performance on economic and trade issues and his firm handling of Treasury officials whose actions in the Whitewater affair embarrassed the president, is also under serious consideration.

The 65-year-old Foley has led administration officials to believe he would be amenable to capping a distinguished career that began more than 30 years ago as an aide to the late Sen. Henry Jackson (D-Wash.) with at least two years as America's top diplomatic official. They disclosed that he earlier declined Clinton's offer to be named U.S.

CONTINUED ON PAGE 12

Hutchison received $45,550

Fields leads House donations

On pace in 1994 to exceed spending in last election

By Craig Karmin

U.S. subsidiaries of foreign-owned corporations are setting new records for PAC contributions to congressional campaigns.

By mid-year, the top 10 PACs already had contributed $1.3 million — the total amount they spent on congressional elections in all of 1992. Federal Election Commission reports indicate that the combined spending for all such PACs — there are nearly 100 in American political campaigns — is on pace to break the record $5.1 million they gave in congressional campaigns in 1992. This is three times the amount they contributed a decade earlier.

The leading Senate beneficiary of these PACs in 1993-1994 is Kay Bailey Hutchison (R-Texas), who received $46,650. Rep. Jack Fields (R-Texas) is the top recipient in the House with $27,000, according to FEC records.

The leading overall contributors are two U.S. subsidiaries of British firms. Glaxo, a pharmaceutical company with a financial stake in how Washington shapes a new health care system, has contributed $303,022 overall. It is one of five pharmaceutical firms among the top 10 foreign PAC contributors.

Brown & Williamson Tobacco Corp., which has critical interests in any new taxes of legislation concerning cigarettes, has donated $145,000 to congressional candidates, many of them on the congressional tax-writing committees. Such PACs, relatively new players on the political landscape, have proliferated in the last decade as foreign corporations built factories in the U.S. and purchased American companies.

The Federal Election Campaign Act prohibits campaign contributions from foreign nationals, but the commission has been divided over the legality of PAC contributions from U.S. subsidiaries of foreign companies.

FEC Chairman Trevor Potter said last month that a five-year FEC investigation resulted in $162,225 in fines against foreign nationals, most of whom had contributed to campaigns in Hawaii. "We believe it is especially important," Potter said, "that candidates, foreign nationals, and the U.S. public all under-

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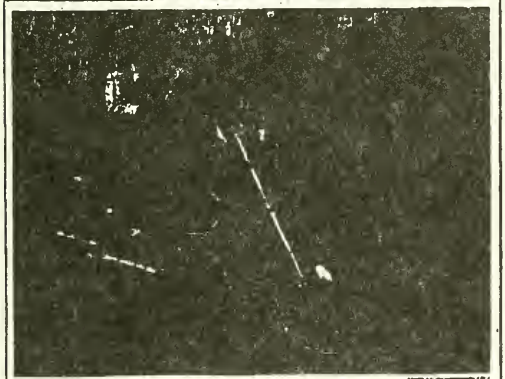
SENATE'S EASY RIDER



Anatomy of a murder of a Senate staffer

By Sarah Pekkanen

Sue Barnes was not surprised to hear the voice of Michael Will, a District of Columbia police detective, when she answered the telephone at her home in Tuscaloosa, Ala., on Sept. 6.

Will, one of six detectives on a "cold case" squad formed to investigate the District's backlog of unsolved murders, had been calling

"Is there any news?" she asked.

"Yes," he said. "Murder in the first degree."

Will could hear Sue Barnes sobbing and yelling to her family, "Guilty. He's guilty."

• • •

Crime rates on Capitol Hill are low compared to some of the city's other neighborhoods. But that is not why the murder of Tom Barnes, the 10th staff aide to

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10 The Hill ■ Wednesday, September 21, 1994

Drug, tobacco firms lead foreign PAC givers

Contributions from foreign-owned corporations stir controversy

CONTINUED FROM PAGE 1

stand that foreign political contributions are expressly prohibited by law."

But the commission has twice voted 4-2 to exempt PACs representing U.S. subsidiaries of foreign-owned or controlled corporations from this ruling, provided that they are funded and operated by Americans. The FEC has repeatedly asked Congress for legislation clarifying this issue, but Congress has deserted.

While gifts from foreign PACs have never amounted to more than about five percent of total PAC contributions, they can revive faltering campaigns and provide a winning edge for candidates. In addition, corporate board members often make individual contributions to congressional campaigns.

Critics of these PACs contend that, just like the PACs of American-owned corporations, they are controlled by the corporate lobbyists who dispense or deny funds to candidates for House and Senate seats. Therefore, they say, American political campaigns are being influenced by decisions made in London, Paris, Riyadh and Tokyo.

Supporters argue that employees of the U.S. subsidiaries are American citizens who should be allowed to participate in the election process to the same extent as employees of U.S. companies. They also cite the economic benefits that their companies have bestowed, including jobs and tax revenues.

The emergence of foreign-owned PACs has angered some lawmakers. Sen. Jim Sasser (D-Tenn.), a candidate for majority leader, has been one of the most outspoken congressional critics of these PACs—despite having accepted $10,000 during the 1994 election cycle from foreign-owned PACs.

Sasser was enraged to learn that executives of Nissan U.S.A., a wholly owned subsidiary of a Japanese multinational corporation, with a new factory in Smyrna, Tenn., gave political and financial support in 1982 to his Republican opponent, Robin Beard. Nissan executives also posted Beard's campaign literature on the factory walls.

The Nissan executives, who were Americans, acted after consulting corporate executives in Washington and Tokyo. The company was angry at Sasser's initial neutrality on a bill that would require a portion of every car sold in the domestic market to be manufactured in the United States. Mr. Beard had strongly opposed the measure.

The FEC already prohibits a domestic subsidiary from establishing a PAC if the parent corporation participates in any way. Yet opponents of foreign-owned PACs say these organizations serve as a back door for foreign nationals to participate in American elections and that the parent corporation's influence is inevitable.

"It's very hard," Danny Lee McDonald, an FEC commissioner, argued at a 1990 hearing on the subject, "all of a sudden, miraculously, to be in a position where you don't have a relationship to your (parent) company."

During his Senate tenure, Treasury Secretary Lloyd Bentsen introduced a bill in 1984, and again in 1990, to prohibit any company that was at least 50 percent foreign-owned from forming a PAC. "I do not think foreign nationals have any business in our political campaigns," Bentsen said during the Senate debate. "Their loyalties lie elsewhere; they lie with their own countries and their own governments."

The Senate approved the 1990 bill 73-27, but later adopted an amendment—drafted in consultation with the foreign-connected PAC coalition and offered by Sen. John Breaux (D-La.) — that eliminated the ban. Instead, PACs had to certify to the FEC that they had not received any money or directions from foreign nationals. The bill was vetoed by President Bush.

Ever since, the Senate has mostly steered clear of legislation governing foreign-owned PACs. But the current House-passed campaign finance reform bill requires every PAC to include in its fund-raising materials a warning that it is unlawful for foreign nationals to contribute and bans foreign nationals from offering any consultation in any federal, state or local election. The FEC has raised the issue at its own hearings, most recently in 1990 and 1991, where commissioners twice voted 4-2 to uphold the ruling allowing foreign-connected PACs.

PAC recipients contend that Americans should not be prohibited from participating in a PAC merely because their corporate headquarters are located overseas. "Limiting acceptance of PAC funds from corporations who are foreign-owned would discriminate against U.S. citizens who work for those corporations," said Sen. Orrin Hatch (R-Utah), the fourth-leading recipient among senators. "Don't U.S. citizens working for multinational companies have as much right to participate in the process as their counterparts working in U.S.-owned firms?"

The companies agree. After tracing Burger King's corporate roots to Grand Metropolitan Plc., a British hotel and entertainment concern, one wrote to the 1990 FEC hearing panel that the proposed ban would bar hamburger makers in Iowa and Indiana from joining a PAC.

But the FEC's legal staff issued a report in 1991 stating that employees do not have a constitutional right to have their employer subsidize a PAC, and does any constitutional argument can really "be said boring."

Lobbyists argue that banning foreign-owned PACs violates various international treaties signed by the U.S. government assuring that all signatory countries treat foreign citizens and corporations the same as their own.

The FEC legal staff, however, examined several treaties and concluded that each specifically excluded the right to participate in the political process. The staff further concluded that fears of retaliation by other signatory nations were groundless because those countries also prohibit foreign participation in their elections.

Top 10 foreign contributors

Leading contributors to congressional candidates among PACs under foreign ownership or control (Jan.1, 1993 - June 30, 1994)

PAC	Foreign Investor	Contribution
1. Glaxo Inc.	Glaxo holdings Plc. (UK)	$303,022
2. Brown & Williamson Tobacco	BAT Industries (UK)	$145,000
3. Hoechst Celanese Corp.	Hoechst AG (Germany)	$140,209
4. First Boston Corp.	CS Holding (Credit Suisse) (Switzerland)	$136,009
5. MCA Inc. Industry Co.	Matsushita Electrical (Japan)	$125,854
6. Joseph E. Seagram & Sons Inc.	Seagram Co. Ltd. (Canada)	$119,250
7. CIBA-Geigy Corp.	CIBA-Geigy (Swiss)	$107,813
8. SmithKline Beecham Corp.	SmithKline Beecham Plc. (UK)	$98,480
9. Shell Oil Co. Group of Cos.	Royal Dutch Shell (Netherlands, UK)	$79,800
10. Hoffmann-La Roche Inc.	Roche Holding Ltd. (Swiss)	$76,700

Top 10 Senate recipients

Senators or candidates who have thus far received the most contributions from foreign-owned or foreign-controlled PACs during the 1994 election cycle.

1. Kay Bailey Hutchison (R-Texas)	$48,350
2. Conrad Burns (R-Mont.)	$36,484
3. Frank Lautenberg (D-N.J.)	$36,397
4. Orrin Hatch (R-Utah)	$34,499
5. Joseph Lieberman (D-Conn.)	$33,999
6. Kent Conrad (D-N.D.)	$33,500
7. John Chafee (R-R.I.)	$25,500
8. Dianne Feinstein (D-Calif.)	$24,000
9. Chuck Robb (D-Va.)	$22,389
10. Duncan Faircloth (R-N.C.)	$22,250

Top 10 House recipients

1. Jack Fields (R-Texas)	$27,000
2. Thomas Foley (D-Wash.)	$26,000
3. Robert Mrazek (D-Calif.)	$20,000
4. John Dingell (D-Mich.)	$19,000
5. Thomas Bliley (R-Va.)	$18,169
6. Lewis Payne (D-Va.)	$18,000
7. Dan Rostenkowski (D-Ill.)	$16,500
8. Sam Gibbons (D-Fla.)	$15,500
9. Bill Brewster (D-Okla.)	$14,500
10. Richard Gephardt (D-Mo.)	$13,000

(Source: Federal Election Commission)

JAN 13 1994

Political Finance & Lobby Reporter

VOLUME XV, NO. 1 January 12, 1994

Trade groups challenge repeal of lobbying expense deductions

A group of trade associations, in a lawsuit filed December 30 in the U.S. District Court for the District of Columbia, asked a federal judge to overturn a new tax law on grounds that it unconstitutionally penalizes them for exercising their First Amendment speech and petition rights.

As a preliminary matter, they requested that an injunction be issued to prevent the Internal Revenue Service from attempting to collect any taxes under the law which became effective on January 1.

U.S. District Judge Stanley Sporkin gave the federal government until January 14 to reply to the lawsuit which was filed by the 21,600-member American Society of Association Executives and 10 other national and regional trade groups.

Among those joining ASAE were the National Association of Broadcasters whose membership includes nearly 6,000 radio and television broadcasters and the 25,000-member National Restaurant Association.

"Injunctive relief is urgently needed," they said, explaining why they weren't willing to let the IRS start collecting taxes now and to seek refunds at a later time if their lawsuit is successful.

"A monetary refund in the indefinite future could not cure the injuries that will be done to plaintiffs, their members and public debate in the meantime. No *post hoc* refund could recall legislative enactments or revoke executive decisions. No *post hoc* refund could restore lost members. No *post hoc* refund could return suppressed contributions to the public debate," they insisted.

Trade associations, they said, "play an important role in placing before governmental decisionmakers the consensus views of entire industries, professions and other groups....many associations are useful sources of information for governmental decisionmakers and have therefore been consulted regularly by them with respect to potential legislation."

But under the law which just took effect, trade associations will have to think about the tax consequences of engaging in any form of lobbying activity.

What would happen, they asked,

(Continued on Page 2)

Foreign-connected PACs increased gifts in '92 races

PACs sponsored by foreign-owned or foreign-controlled companies gave more than $3.1 million to candidates who sought election to the U.S. House and Senate in 1992, according to an analysis that was prepared for the forthcoming 1994-95 edition of the *Almanac of Federal PACs*.

The analysis, based on corporate ownership information which is disclosed to the U.S. Securities and Exchange Commission, identified 93 PACs whose corporate sponsors are under foreign ownership or control.

Altogether, they raised $4.3 million in voluntary contributions from their employees who are U.S. citizens.

Of the $3.1 million that was contributed to federal candidates, $1.7 million went to Democrats and $1.4 million went to Republicans.

[A *Congressional Research Service* tabulation of 1987-88 election cycle contributions by foreign-connected PACs identified $2.8 million worth of gifts in federal elections. A *Political Finance & Lobby Reporter* analysis of 1989-90 election cycle contributions showed contributions by foreign-connected PACs dropped to $2.4 million.]

Federal election law makes it illegal for foreign nationals to make contributions in any U.S. elections. It is the only provision of the Federal

(Continued on Page 3)

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Foreign-connected PACs boosted their gifts in 1992 elections

(From Page 1)

Election Campaign Act that applies to state and local elections.

In the past, Congress has considered legislation and the Federal Election Commission has considered regulations to outlaw PAC sponsorship by foreign-connected corporations.

As part of its 1990 campaign reform bill that died at the end of the 101st Congress, the Senate overwhelmingly approved an amendment by then Sen. Lloyd Bentsen (D-Tex.) that flatly prohibited PAC sponsorship by foreign-owned companies.

When the Senate returned to the issue in the 102nd Congress, it approved a less stringent provision, suggested by Sen. John Breaux (D-La.), that would have required all PACs to certify that foreign nationals do not contribute money or participate in contribution decisions.

That language did not survive a conference with the House. Instead, the bill that was ultimately vetoed by former President Bush contained language that strengthened the current law's prohibition against participation by foreign nationals in U.S. elections.

Now, in the 103rd Congress, campaign reform bills that were approved last year by the House and Senate

(Continued on Page 5)

House bill has warning for foreign nationals

To guard against possible involvement by foreign nationals in U.S. elections, the House-passed campaign reform bill (H.R. 3) requires every PAC to revise their fundraising solicitation materials to include this notice:

"It is unlawful for a foreign national to make any contribution of money or other thing of value to a political committee."

The notification requirement would apply not only to the more than 4,000 Federal Election Commission-registered PACs, but also to the more than 12,000 PACs which are registered with various state election law agencies.

Also, the House bill contains language that strengthens the current Federal Election Campaign Act's ban on foreign participation in federal, state or local elections.

It states:

"A foreign national shall not directly or indirectly, direct, control, influence or participate in any person's election-related activities, such as the making of contributions or expenditures in connection with elections for any local, State or Federal office or the administration of a political committee."

Foreign-connected PACs: 1991-92

The chart below lists PAC-sponsoring corporations which are under foreign ownership or control, which gave at least $10,000 to federal candidates during the 1991-92 election cycle. It shows the total amount raised and spent by the company's PAC during the two-year cycle, the amount given to federal candidates and how those gifts were divided between Democrats and Republicans.

Foreign parent	U.S. subsidiary	Raised	Spent	Gifts	Dems	GOP
AUSTRALIA						
Broken Hill Proprietary Ltd.	BHP-Utah International Inc.	28,435	25,250	19,550	3,000	16,550
News Corporation Ltd.	Fox Inc.	46,863	58,200	52,700	44,700	8,000
BELGIUM						
Petrofina SA	Fina Oil & Chemical Co.	51,251	51,979	12,800	6,750	6,050
CANADA						
Bank of Montreal	Harris Trust Co.	32,411	26,850	11,950	9,200	2,750
Camdev Corp. of Canada	Ralphs Grocery Co.	33,363	24,534	21,034	10,269	10,765
Imasco Ltd.	Hardee's Food Systems Inc.	32,916	38,133	29,750	11,250	18,500
Northern Telecom Ltd.	Northern Telecom Inc.	52,927	48,095	42,554	21,350	21,204
Seagram Co. Ltd.	Joseph E. Seagram & Sons Inc.	255,026	281,269	210,000	173,500	36,500
Sun Life Assurance Co.	Massachusetts Financial Services Co.	25,407	25,472	14,000	7,000	7,000
DENMARK						
FLS Industries A/S	Fuller Co.	18,495	21,163	14,600	0	14,600
ENGLAND						
Allied-Lyons Plc.	Hiram Walker & Sons Inc.	40,884	57,290	31,300	24,250	7,050
B.A.T. Industries Plc.	Brown & Williamson Tobacco Corp.	117,271	69,200	58,700	35,850	22,850
B.A.T. Industries Plc.	Farmers' Group Inc.	35,970	39,014	29,542	2,300	27,242

Foreign parent	U.S. subsidiary	Raised	Spent	Gifts	Dems	GOP
Bass Plc.	International Assn of Holiday Inns	42,024	32,239	27,500	10,250	17,250
Bass Plc.	Holiday Inns Inc.	4,837	25,550	15,950	6,450	9,500
British Petroleum Co. Plc.	BP America Corp.	208,590	223,349	114,900	45,200	69,700
Glaxo Holdings Plc.	Glaxo Inc.	211,845	211,401	175,522	95,500	80,022
Grand Metropolitan Plc.	Pillsbury Co.	34,744	24,810	24,200	7,350	16,850
Hanson Plc.	Peabody Coal Co.	108,139	94,475	78,213	37,813	40,400
HSBC Holdings Plc.	Marine Midland Banks Inc.	131,841	90,519	34,335	16,750	17,585
Imperial Chemical Industries Plc.	ICI Americas Inc.	92,390	87,921	84,487	53,008	31,479
Mercantile House Holdings Plc.	Oppenheimer Holdings Inc.	38,944	11,331	11,000	10,000	1,000
Pilkington Group Plc.	Libbey-Owens-Ford Co.	39,725	33,550	29,750	6,000	24,750
Prudential Corp. Plc.	Brooke Holding Inc.	37,575	19,805	17,750	13,250	4,500
RTZ Corp. Plc.	Kennecott Corp.	22,015	21,512	18,000	3,500	14,500
SmithKline Beecham Plc.	SmithKline Beecham Inc.	100,568	82,697	74,300	37,500	36,800
Tate & Lyle Plc.	A.E. Staley Manufacturing Co.	74,708	29,239	28,893	13,693	15,200
Wellcome Foundations Ltd.	Burroughs Wellcome Co.	28,547	26,900	24,100	10,850	13,250
WPP Group Plc.	Hill & Knowlton Inc.	16,316	16,982	16,850	8,400	8,450
WPP Group Plc.	Wexler Group	88,532	89,528	72,884	60,065	12,819
FRANCE						
Lafarge Coppee SA	Lafarge Corp.	21,900	22,096	18,750	13,500	5,250
Rhone-Poulenc SA	Rhone-Poulenc Inc.	71,391	75,800	63,750	14,000	49,750
Rhone-Poulenc SA	Rhone-Poulenc Rorer Inc.	50,153	37,327	11,500	2,300	9,200
GERMANY						
Allianz Versicherungs AG	Fireman's Fund Insurance Co.	109,326	104,481	86,570	40,570	46,000
Hoechst AG	Hoechst Celanese Corp.	171,808	166,773	166,700	68,200	98,500
Philipp Holzmann AG	Jones Group Inc.	13,933	18,600	18,600	2,500	16,100
Siemens AG	Siemens Energy & Automation Inc.	988	11,788	10,600	6,900	3,700
Thyssen AG	Budd Co.	21,671	15,500	14,000	2,000	12,000
IRELAND						
AIB Group Plc.	First Maryland Bancorp	22,072	19,626	13,185	5,685	7,500
ITALY						
Assicurazioni Generali SpA	Business Men's Assurance Co.	17,632	20,000	13,000	4,500	8,500
Ferruzzi Finanziaria SpA	Central Soya Co.	22,985	22,508	19,350	2,200	17,150
JAPAN						
Bank of Tokyo Ltd.	Union Bank of San Francisco	17,476	21,500	13,000	6,000	7,000
Ito-Yokado Co. Ltd.	Southland Corp.	37,845	48,060	33,068	20,439	12,619
Matsushita Electrical Industry Co.	MCA Inc.	198,142	208,780	182,650	151,550	31,100
Toyota Motor Corp.	New United Motor Manufacturing Inc.	16,156	15,300	11,800	7,300	4,500
Yamanouchi Pharmaceutical Co.	Shaklee Corp.	18,745	20,000	19,000	7,750	11,250
KUWAIT						
Kuwait Petroleum Corp.	Santa Fe International Corp.	38,814	39,822	39,784	4,084	35,700
NETHERLANDS						
Internationale Nederlanden Groep NV	Georgia U.S. Corp.	26,281	26,058	20,150	13,450	6,700
Internationale Nederlanden Groep NV	Security Life of Denver Insurance Co.	27,380	33,318	31,800	14,000	17,800
Philips Gloeilampenfabrieken NV	North American Philips Corp.	68,158	73,318	69,450	12,900	56,550
Royal Dutch Shell Group of Cos.	Shell Oil Co.	151,417	161,810	130,750	52,950	77,800
SWEDEN						
Procordia AB	Pinkerton Tobacco Co.	79,086	96,332	66,475	33,350	33,125
SWITZERLAND						
Asea Brown Boveri Ltd.	Asea Brown Boveri Inc.	77,444	88,781	87,819	43,300	24,219
CIBA-Geigy AG	CIBA-Geigy Corp.	210,927	194,879	140,200	59,150	81,050
CS Holding (Credit Suisse)	First Boston Corp.	102,667	118,405	96,500	7,3000	23,500
Nestle SA	Nestle USA Inc.	77,676	86,317	83,887	57,330	26,537
Roche Holding Ltd.	Hoffmann-La Roche Inc.	121,622	118,956	68,600	27,200	39,400
Roche Holding Ltd.	Genentech Inc.	73,314	86,984	79,200	50,951	28,249
Sandoz Ltd.	Sandoz Agro Inc.	25,152	13,003	10,150	7,350	2,800
Sandoz Ltd.	Sandoz Pharmaceuticals Corp.	43,289	33,750	27,350	7,750	19,600

Source: Federal Election Commission, Almanac of Federal PACs

New lobbying tax will make trade execs shudder when phone rings

(From Page 2)
future members to pay for it with fully taxable dues.

"An association that spends significant resources monitoring legislation, or undertaking expensive research projects, is therefore faced with a serious disincentive against contacting government officials or employees, or even responding to their unsolicited questions," they said in their lawsuit.

Indeed, they added, the cost of responding to a government official's inquiries may be "all out of proportion" to the lobbying activity. In the scenario above, consider the trade association executive who uses $2.10 in postage to mail the $50,000 study and thereby incurs a tax liability of $17,500.74 ($17,500 for the study and 74 cents for the postage).

As enacted by Congress, trade associations have an option: they can either advise their members what portion of their dues will be used for lobbying activities and therefore cannot be deducted; or, they can simply pay the tax themselves.

Whichever method is chosen, trade associations are required to maintain accurate records just in case, as in the scenario cited above, a fully deductible expense becomes transformed at a future time into a taxable lobbying expenditure.

While the new tax provision applies equally to lobbying expenditures by corporations and trade associations, their impact is different. Corporations simply lose their tax deductions for their lobby expenditures. But trade associations must comply with special notification and recordkeeping requirements, in effect penalizing them if they decide to exercise their First Amendment rights now or at some future time.

"The provisions of the Act applicable to associations do not simply withdraw a tax deduction for dues spent on lobbying. They 'place obstacles in the path of (an association's) exercise of...freedom of speech,' in violation of the speech and petition clauses of the First Amendment," they said in their lawsuit, quoting a phrase from the U.S. Supreme Court's 1983 decision in *Regan vs. Taxation With Representation*.

In that case, the high court upheld the right to Congress to grant tax favors on a selective basis. It said Congress could provide tax-exempt status to veterans organizations that engage in substantial lobbying while denying similar blanket protections for other types of organizations.

Foreign-connected PAC issue is subject for conferees

(From Page 3)
await a difficult conference. While the Senate version contains no provisions that specifically affect foreign nationals, the House version repeats the same language that appeared in the vetoed 1992 bill.

In 1990, while Bentsen was seeking to ban foreign-connected PACs through legislation, the Federal Election Commission appeared ready to ban them through regulation.

Although its legal staff recommended its approval, the FEC eventually voted 4-2 to reject a proposed rule. Instead, the FEC's majority said it would continue to allow foreign-owned companies to sponsor PACs provided their funds and giftmaking decisions came only from U.S. citizens without involvement by the company's foreign owners.

But the FEC's rulemaking exercise triggered intense interest among foreign-owned corporations who feared they would suffer economic disadvantages if unable to compete alongside domestic corporations in the political finance arena.

"Never before in the FEC's history has another question raised as much interest, emotion or importance," remarked FEC Commissioner John Warren McGarry just before the final vote. On that day, the commission's normally empty meeting room was swelled to capacity with lobbyists from foreign-owned companies.

If nothing else, the rulemaking had to make observers wonder what was exactly at stake. Foreign-owned companies whose PACs contributed less than a few hundred dollars to congressional candidates during a two-year election cycle spent thousands of dollars worth of time and legal talent to prepare comments and oral testimony for the FEC.

And the issue brought conflicting advice from two corners of the Bush Administration.

While the U.S. Justice Department said adoption of the FEC's proposed regulation would help strengthen national security, the departments of Treasury, Commerce and State claimed the regulation would violate international treaties.

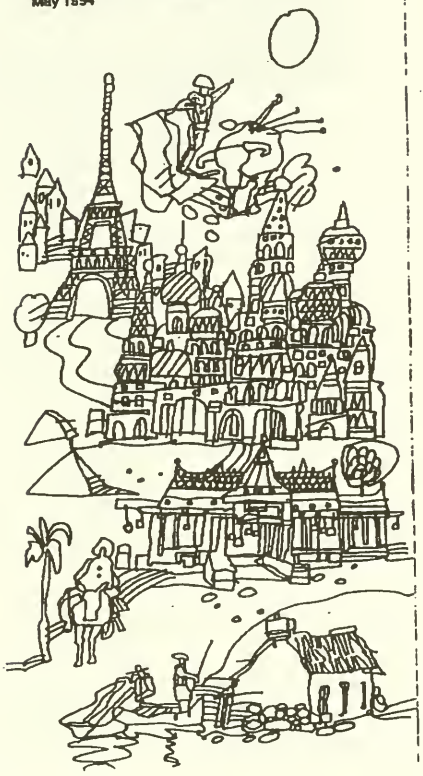
Various treaties, the three cabinet departments said in a joint letter to the FEC, requires "national treatment," an international law concept which assures that a country will treat foreign citizens and corporations the same as its own.

But the FEC's legal staff examined those treaties and discovered that they specifically excluded political activity from their definition of "national treatment."

Some of those opposing the proposed regulation said it would provoke retaliation by a number of countries. But those fears were groundless, the FEC's legal staff said, because the countries which are parties to the treaties—Japan, France, Spain, Portugal, Israel and Mexico—place restrictions on foreign participation in their own elections.

Foreign Nationals

Federal Election Commission
May 1994



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Introduction

The ban on political contributions and expenditures by foreign nationals was first enacted in 1966 as part of the amendments to the Foreign Agents Registration Act (FARA), an "internal security" statute. The goal of the FARA was to minimize foreign intervention in U.S. elections by establishing a series of limitations on foreign nationals. These included registration requirements for the agents of foreign principals and a general prohibition on political contributions by foreign nationals. In 1974, the prohibition was incorporated into the Federal Election Campaign Act (the Act), which gave the Federal Election Commission (FEC) jurisdiction over its enforcement and interpretation.

This brochure has been developed to help clarify the rules regarding the political activity of foreign nationals; however, it is not intended to provide an exhaustive discussion of the election law. If you have any questions after reading this brochure, please call the FEC in Washington, DC, at 800-424-9530 or 202-219-3420. Members of the press should contact the FEC Press Office at 202-219-4155 or at the 800 number listed above.

Except where otherwise noted, all citations refer to the Act and FEC regulations. Advisory opinions (AOs) issued by the Commission are also cited.

W ‘tten by Kevin R. Salley

The Prohibition

Under the Act, foreign nationals are prohibited from making contributions or expenditures (including independent expenditures) in connection with any U.S. election (federal, state or local), either directly or through another person. Furthermore, the acceptance of contributions from foreign nationals by candidates or political committees, is prohibited in all U.S. elections—federal, state and local.
2 U.S.C. §441e; 11 CFR 110.4(a) and 110.9(a).

Who is a Foreign National

The following groups and individuals are considered "foreign nationals" and are therefore subject to the prohibition:

- Foreign governments;
- Foreign political parties;
- Foreign corporations;
- Foreign associations;
- Foreign partnerships;
- Individuals with foreign citizenship; and
- Immigrants not possessing a "green card".

Immigrants

An immigrant is eligible to make a contribution if the immigrant has a "green card" indicating that he or she has been lawfully admitted for permanent residence in the United States.

Domestic Subsidiaries and Foreign-Owned Corporations

A U.S. subsidiary of a foreign corporation or a U.S. corporation that is owned by foreign nationals may be subject to the prohibition, as discussed below.

PAC Contributions for Federal Activity

A domestic subsidiary of a foreign corporation may NOT establish a federal political committee (or PAC) to make federal contributions if:
(1) The foreign parent corporation finances the PAC's establishment, administration, or solicitation costs; or
(2) Individual foreign nationals:

- Participate in the operation of the PAC;
- Serve as officers of the PAC;
- Participate in the selection of persons who operate the PAC; or
- Make decisions regarding PAC contributions or expenditures. 11 CFR 110.4(a)(2) and (3). (See also AOs 1990–8, 1989–29, and 1989–20.)

Corporate Contributions for Nonfederal Activity

Additionally, a domestic subsidiary of a foreign corporation (or a domestic corporation owned by foreign nationals) may NOT donate funds or anything of value in connection with state or local elections if:
(1) These activities are financed by the foreign parent or owner; or
(2) Individual foreign nationals are involved in any way in the making of donations to nonfederal candidates and committees.[1]

Please note that many states place additional restrictions on donations made to nonfederal candidates and committees. 11 CFR 110.4 (a)(3). (See also AOs 1992–16, 1985–3, 1982–10 and MUR 2892).

[1] *This means that foreign nationals may not participate in donation activity, allocate funds for donations, or make decisions regarding donations (e.g., selecting the recipients, approving the making of donations or approving the issuance of donation checks).*

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Volunteer Activity

Generally, an individual may volunteer personal services to a federal candidate or federal political committee without making a contribution. The Act provides this volunteer "exemption" as long as the individual performing the service is not compensated by anyone. 11 CFR 100.7(b)(3). The Commission has addressed the applicability of this exemption to volunteer activity by a foreign national, as explained below.

In Advisory Opinion 1987–25, the Commission allowed a foreign national student to provide uncompensated volunteer services to a Presidential campaign. By contrast, the decision in AO 1981–51 prohibited a foreign national artist from donating his services in connection with fundraising for a Senate campaign.[2]

[2] *The Commission has stated that this opinion is not superseded by AO 1987–25, individuals may obtain further guidance in this area by requesting an advisory opinion about their own proposed activity.*

Nonelection Activity by Foreign Nationals

Despite the general prohibition on foreign national contributions, foreign nationals may lawfully engage in political activity that is not connected with any election to political office (federal, state or local). The FEC has clarified such activity with respect to individuals' activity.

In Advisory Opinion 1989–32, the Commission concluded that although foreign nationals could make disbursements solely to influence ballot issues, a foreign national could not contribute to a ballot committee that had coordinated its efforts with a nonfederal candidate's re-election campaign.

In Advisory Opinion 1989–41, the Commission allowed a foreign national to underwrite the broadcast of political ads that attempted to expose the alleged political bias of the media. The Commission found that these ads were not election influencing because they did not mention candidates, political offices, political parties, incumbent federal officeholders or any past or future federal election.[3]

[3] *Individuals and committees should consider requesting an advisory opinion before engaging in other types of political activity involving foreign nationals.*

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Monitoring Prohibited Contributions

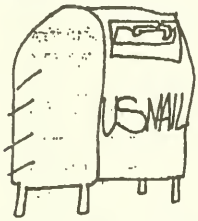
When a federal political committee (a committee involved in federal election activity) receives a contribution it believes may be from a foreign national, it must:

- Return the contribution to the donor without depositing it; or
- Deposit the contribution and take steps to determine its legality, as described below.

Either action must be taken within 10 days of the treasurer's receipt. 11 CFR 103.3 (b)(1).

If the committee decides to deposit the contribution, the treasurer must make sure that the funds are not spent because they may have to be refunded. Additionally, he or she must maintain a written record explaining why the contribution may be prohibited.[4] 11 CFR 103.3(b)(4) and (5). The legality of the contribution must be confirmed within 30 days of the treasurer's receipt, or the committee must issue a refund.[5] 11 CFR 103.3(b)(1).

If the committee deposits a contribution that appears to be legal, but later discovers that the deposited contribution is from a foreign national, it must refund the contribution within 30 days of making the discovery. If a committee lacks sufficient funds to make a refund when a prohibited contribution is discovered, it must use the next funds it receives. 11 CFR 103.3(b)(1)and(2).



[4] *This information must be included when the receipt of the contribution is reported.*

[5] *Evidence of legality includes, for example, a written statement from the contributor explaining why the contribution is legal (e.g. donor has a green card), or an oral explanation that is recorded in a memorandum.*

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104TH CONGRESS
1ST SESSION

H. R. 2499

To amend the Federal Election Campaign Act of 1971 to prohibit contributions and expenditures by multicandidate political committees controlled by foreign-owned corporations, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 18, 1995

Ms. KAPTUR introduced the following bill; which was referred to the Committee on House Oversight, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

To amend the Federal Election Campaign Act of 1971 to prohibit contributions and expenditures by multicandidate political committees controlled by foreign-owned corporations, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ethics in Foreign Lobbying Act of 1995".

SEC. 2. PROHIBITION OF CONTRIBUTIONS AND EXPENDITURES BY MULTICANDIDATE POLITICAL COMMITTEES OR SEPARATE SEGREGATED FUNDS SPONSORED BY FOREIGN-CONTROLLED CORPORATIONS AND ASSOCIATIONS.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 441 et seq.) is amended by adding at the end the following new section:

"PROHIBITION OF CONTRIBUTIONS AND EXPENDITURES BY MULTICANDIDATE POLITICAL COMMITTEES SPONSORED BY FOREIGN-CONTROLLED CORPORATIONS AND ASSOCIATIONS

"SEC. 324. (a) Notwithstanding any other provision of law—

"(1) no multicandidate political committee or separate segregated fund of a foreign-controlled corporation may make any contribution or expenditure with respect to an election for Federal office; and

"(2) no multicandidate political committee or separate segregated fund of a trade organization, membership organization, cooperative, or corporation without capital stock may make any contribution or expenditure with respect to an election for Federal office if 50 percent or more of the operating fund of the trade organization, membership organization, co-

operative, or corporation without capital stock is supplied by foreign-controlled corporations or foreign nationals.

"(b) The Commission shall—

"(1) require each multicandidate political committee or separate segregated fund of a corporation to include in the statement of organization of the multicandidate political committee or separate segregated fund a statement (to be updated annually and at any time when the percentage goes above or below 50 percent) of the percentage of ownership interest in the corporation that is controlled by persons other than citizens or nationals of the United States;

"(2) require each trade association, membership organization, cooperative, or corporation without capital stock to include in its statement of organization of the multicandidate political committee or separate segregated fund (and update annually) the percentage of its operating fund that is derived from foreign-owned corporations and foreign nationals; and

"(3) take such action as may be necessary to enforce subsection (a).

"(c) The Commission shall maintain a list of the identity of the multicandidate political committees or separate segregated funds that file reports under subsection (b), including a statement of the amounts and percentage reported by such multicandidate political committees or separate segregated funds.

"(d) As used in this section—

"(1) the term 'foreign-owned corporation' means a corporation at least 50 percent of the ownership interest of which is controlled by persons other than citizens or nationals of the United States;

"(2) the term 'multicandidate political committee' has the meaning given that term in section 315(a)(4);

"(3) the term 'separate segregated fund' means a separate segregated fund referred to in section 316(b)(2)(C); and

"(4) the term 'foreign national' has the meaning given that term in section 319."

SEC. 3. PROHIBITION OF CERTAIN ELECTION-RELATED ACTIVITIES OF FOREIGN NATIONALS.

Section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e) is amended by adding at the end the following new subsection:

"(c) A foreign national shall not direct, dictate, control, or directly or indirectly participate in the decision-making process of any person, such as a corporation, labor organization, or political committee, with regard to such person's Federal or non-Federal election-related activities, such as decisions concerning the making of contributions or expenditures in connection with elections for any local, State, or Federal office or decisions concerning the administration of a political committee.".

SEC. 4. ESTABLISHMENT OF A CLEARINGHOUSE OF POLITICAL ACTIVITIES INFORMATION WITHIN THE FEDERAL ELECTION COMMISSION.

(a) There shall be established within the Federal Election Commission a clearinghouse of existing public information regarding the political activities of foreign principals and foreign agents (as defined by the Foreign Agents Registration Act of 1938, as amended). The information comprising this clearinghouse shall include and be solely limited to the following:

(1) Existing publicly disclosed registrations and quarterly reports required by the Federal Regulation of Lobbying Act (2 U.S.C. 261–270).

(2) Existing publicly disclosed registrations and quarterly reports required by the Foreign Agents Registration Act, as amended (22 U.S.C. 611–621).

(3) The catalogue of public hearings, hearings witnesses and witness affiliations as printed in the Congressional Record.

(4) Existing public information disclosed pursuant to House and Senate rules regarding honoraria, the receipt of gifts, travel, earned and unearned income, post-congressional employment, and conflict of interest regulations.

(5) Existing public information disclosed pursuant to the requirements of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.).

(b) Notwithstanding any other provision of law, the disclosure by the clearinghouse of any information other than that set forth in subsection (a) shall be prohibited except by Act of Congress.

(c) A Director shall administer and manage the responsibilities and all activities of the clearinghouse.

(d) The Director shall be appointed by the Federal Election Commission.

(e) The Director shall serve a single term not to exceed 5 years.

(f) There shall be authorized such sums as necessary to conduct activities of the clearinghouse.

SEC. 6. DUTIES AND RESPONSIBILITIES OF THE DIRECTOR OF THE CLEARINGHOUSE.

(a) IN GENERAL.—It shall be the duty of the Director—

(1) to develop a filing, coding, and cross-indexing system to carry out the purposes of this Act (which shall include an index of all persons identified in the reports, registrations, and other existing public disclosures filed under this Act);

(2) notwithstanding any other provision of law, to make copies of registrations, reports and public disclosures filed with him under this Act available for public inspection and copying, commencing as soon as practicable, and to permit copying of any such registration or report by hand or by copying machine or, at the request of any person, to furnish a copy of any such registration or report upon payment of the cost of making and furnishing such copy; but no information contained in such registration or report shall be sold or utilized by any person for the purpose of soliciting contributions or for any profit-making purpose;

(3) to compile and summarize, for each calendar quarter, the information contained in such registrations, reports, and other existing public disclosures required by this Act in a manner which facilitates the disclosure of political activities, including, but not limited to, information on—

(A) political activities pertaining to issues before the Congress and issues before the executive branch; and

(B) the political activities of individuals, organizations, foreign principals, and foreign agents who share an economic, business, or other common interest;

(4) to make the information compiled and summarized under paragraph (3) available to the public within 30 days after the close of each quarterly period, and to publish such information in the Federal Register at the earliest practicable opportunity;

(5) not later than 150 days after the date of the enactment of this Act and at any time thereafter, to prescribe, in consultation with the Comptroller General of the United States, rules, regulations, and forms, in conformity with the provisions of chapter 5 of title 5, United States Code, as are necessary to carry out the provisions of this Act in the most effective and efficient manner;

(6) at the request of any Member of the Senate or the House of Representatives, to prepare and submit to such Member a special study or report re-

lating to the political activities of any person, such report to consist solely of the information in the registrations, reports, and other publicly disclosed information required in this Act;

(7) to require the accurate, timely, and complete transfer of information required under section 1 of this Act to the clearinghouse; and

(8) to refer to the Comptroller General for investigation any instances where registrations, reports, and political information required in section 1 of this Act are not forwarded to the clearinghouse in an accurate, timely, and complete fashion.

(b) DEFINITIONS.—As used in this section—

(1) the term "issue before the Congress" means the total of all matters, both substantive and procedural, relating to (A) any pending or proposed bill, resolution, report, nomination, treaty, hearing, investigation, or other similar matter in either the Senate or the House of Representatives or any committee or office of the Congress, or (B) any action or proposed action by a Member, officer, or employee of the Congress to affect, or attempt to affect, any action or proposed action by any officer or employee of the executive branch; and

(2) the term "issue before the executive branch" means the total of all matters, both substantive and procedural, relating to any action or possible action by any executive agency, or by any officer or employee of the executive branch, concerning (A) any pending or proposed rule, rule of practice, adjudication, regulation, determination, hearing, investigation, contract, grant, license, negotiation, or the appointment of officers and employees other than appointments in the competitive service or (B) any issue before the Congress.

SEC. 6. AMENDMENTS TO THE FOREIGN AGENTS REGISTRATION ACT OF 1938, AS AMENDED.

(a) Section 2(b) of the Foreign Agents Registration Act of 1938, as amended, is amended in the first sentence by striking out ", within thirty days" and all that follows through "preceding six months' period" and inserting in lieu thereof "on January 31, April 30, July 31, and October 31 of each year, file with the Attorney General a supplement thereto on a form prescribed by the Attorney General, which shall set forth regarding the three-month periods ending the previous December 31, March 31, June 30, and September 30, respectively, or if a lesser period, the period since the initial filing,".

(b) Section 3(g) of the Foreign Agents Registration Act of 1938, as amended, is amended by inserting after "whether formal or informal." the following: "Notwithstanding any other provision of law, persons covered by this subsection shall be exempt only upon filing with the Attorney General an affirmative request for exemption.".

(c) Section 8 of the Foreign Agents Registration Act of 1938, as amended, is amended by adding at the end thereof the following:

"(i)(1) Any person who is determined, after notice and opportunity for an administrative hearing—

"(A) to have failed to file a registration statement under section 2(a) or a supplement thereto under section 2(b),

"(B) to have omitted a material fact required to be stated therein, or

"(C) to have made a false statement with respect to such a material fact,

shall be required to pay a civil penalty in an amount not less than $2,000 or more than $5,000 for each violation committed. In determining the amount of the penalty, the Attorney General shall give due consideration to the nature and duration of the violation

"(2)(A) In conducting investigations and hearings under paragraph (1), administrative law judges may, if necessary, compel by subpoena the attendance of witnesses and the production of evidence at any designated place or hearing.

"(B) In the case of contumacy or refusal to obey a subpoena lawfully issued under this paragraph and, upon application by the Attorney General, an appropriate district court of the United States may issue an order requiring compliance with such subpoena and any failure to obey such order may be punished by such court as contempt thereof.".

O

The CHAIRMAN. I would like to go to the gentleman from Connecticut who has had a long-time interest in this area, Mr. Shays.

STATEMENT OF HON. CHRISTOPHER SHAYS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CONNECTICUT

Mr. SHAYS. Thank you, Chairman Thomas and Congressman Fazio, and others, and Dunn. I have total confidence, given the makeup of this committee, particularly those who are here right now, that you are taking this issue very seriously and that we are going to see some strong campaign finance reform come out of this committee and to the Floor. And I just want to express gratitude that you are holding these hearings now and not next year.

I would say to my colleagues on the other side of the aisle, it has to be bipartisan. We are not going to have meaningful legislation if it doesn't include the input of Democrats and Republicans. I would say to my colleagues on my side of the aisle, let's do it under our watch. We have for years said that if we were in power, that we would act. Let's do it under our watch. It needs to be bipartisan, but let's do it under our watch.

As important as gift ban and lobby disclosure are, and they are very important, I believe campaign finance reform is far more important. We need to find a way, if we can, to voluntarily limit the amount that is spent. We need to find a way to eliminate PAC contributions, particularly leadership PACs and the kind of PAC contributions that happen in Washington, where Members call up lobbyists and say, "Will you attend my PAC fund-raiser and, by the way, you know, I haven't seen you for awhile and I would like to see you there, and I know it has gone up from $200 now to $500, in some cases even more, but I really want to see you there."

We need to find ways to eliminate or reduce the impact of soft money. These are corporations, unions, individuals giving unlimited sums to our political parties. There has got to be a way to at least cap that kind of expenditure. And I might just say to you that we have got to find a way to eliminate the bundling of campaign money. We have done that in a bill that has been introduced by Linda Smith; Marty Meehan, a Democrat; David Minge, a Democrat; Glenn Poshard, a Democrat; Bob English, Republican; and myself, a Republican, bipartisan.

We call it the Bipartisan Clean Congress Act of 1995, but we really could call it the bipartisan and bicameral, because it is really designed after what John McCain, a Republican from Arizona, and Russ Feingold, a Democratic, have introduced in the Senate.

It looks to limit the amount that we spend on campaigns. It looks to eliminate PACs, eliminate soft money, eliminate bundling and, in the end, I think we will have a tremendous impact.

I just will finally end by saying I am grateful as well that you are holding this hearing, but that our Speaker came and testified and has fulfilled his commitment. He made a very sincere pledge with the President of the United States. They shook hands on it and it is important that that pledge be honored.

I would just add that it be speeded up a bit, that it not come in May, the results of the Commission, but that it come sooner, to give us a little more time to deal with this issue before the summer

time when, candidly, we are all in a campaign and where I think things could get lost.

Again, I just want to say that I have total faith in this committee. I am not saying I would risk my life for this committee or my election, but I do have a sense that you will treat this very sincerely and that we will see some action and an opportunity to vote on the House of the Floor.

[The statement of Mr. Shays follows:]

TESTIMONY OF CONGRESSMEN CHRISTOPHER SHAYS

BEFORE THE HOUSE OVERSIGHT COMMITTEE

POLITICAL ACTION COMMITTEES

NOVEMBER 2, 1995

Chairman Thomas, Congressman Fazio and Members of the Committee:

Thank you for allowing me the opportunity to testify before your committee to discuss campaign finance reform.

Today's hearing on political action committees (PACs) begins an important process -- a discussion of the various issues involved with reforming the way campaigns are financed. While dealing with PACs is an essential part of reforming our campaign finance system, it is not enough by itself. We need comprehensive reform.

On Tuesday, I joined Linda Smith, Martin Meehan, David Minge and others in introducing H.R. 2566, a sweeping, bipartisan and bicameral campaign finance reform bill modeled on the legislation introduced in the Senate by John McCain and Russell Feingold. Our bill is a comprehensive proposal that limits overall spending in campaigns by providing benefits to those who agree to these voluntary spending limits, and in the process reduces the influence of special interests and closes loopholes.

Our legislation establishes a voluntary system by which candidates who agree to limit their overall spending receive certain benefits, including television and radio time at 50 percent off of the lowest unit rate, and three mailings to every person in the district at the lowest third-class non-profit rate. Candidates who opt-into the system must spend an aggregate of no more than $600,000 and contribute no more than $60,000 in personal funds.

Incremental increases to the $600,000 limit would be provided when a complying candidate faces a contested primary or run-off election, or when his or her opponent spends an aggregate of more than $600,000, spends more than $150,000 in personal funds, or opts-into the system and then violates it. In addition, complying candidates would be allowed to raise individual contributions of up to $2,000 each (up from $1,000) when his or her opponent spends an aggregate of more than $300,000, spends more than $150,000 in personal funds, or opts-into the system and then violates it.

To ensure only viable candidates receive the benefits package, a candidate must reach a certain threshold of contributions before receiving any benefits. Specifically, he or she must raise 10 percent of the total limit in contributions of $200 or less, with 60 percent of the threshold coming from within the candidate's home-state and 30 percent coming from within the home-district.

In addition to limiting overall spending through this voluntary system, H.R. 2566 reduces the influence of special interests by abolishing PACs, including leadership PACs, and limiting candidates in how much they can receive from large donors, lobbyists and people residing outside of their home state. Specifically, the bill prohibits candidates from receiving more than $150,000 in contributions of $250 or more, prohibits lobbyist donations of more than $100, and requires candidates to raise at least 60 percent of their total contributions from people residing in their home state.

The bill includes fallback provisions in the event any of these limits is deemed unconstitutional. In such a case, PAC contributions would be limited to $1,000 and 25 percent of aggregate donations, and the limits on large donor, lobbyist and in-state contributions would become part of the voluntary system.

Finally, our legislation closes loopholes by banning bundling and eliminating soft money. The ban on bundling includes all groups -- there are no exceptions. With regard to soft money, under H.R. 2566 any funds solicited or received by national parties would be subject to the current limits on contributions to federal elections.

Certain activities would be defined specifically as activities that affect a federal election, and funds spent on such activities during a federal election year would be subject to the limitations. These activities include voter registration drives, get-out-the-vote activity, generic campaign activities and communication that identifies a federal candidate. Currently, unlimited amounts of money may be spent on these activities by any group, including corporations and labor unions. H.R. 2566 would change this practice.

Ours is a strong, comprehensive, bipartisan and bicameral bill that will revolutionize the campaign finance system. Only by adopting broad reforms, including but not limited to PACs, will we achieve the change that is needed. I urge you to look at H.R. 2566 carefully while considering this issue.

I commend you for holding these important hearings, and hope that you send to the floor comprehensive campaign finance reform by early next year.

The CHAIRMAN. I thank the gentleman very much.

I was very pleased as well that not only the Speaker but the Minority Leader——

Mr. SHAYS. I should have said that.

The CHAIRMAN [continuing]. Would both come and address the opening of these hearings but, frankly, in the last several Congresses, we have come up with campaign finance reform, but it has almost always done—it has been done behind closed doors and on a partisan basis. We had tried to work in a bipartisan way.

I have been remiss in not mentioning yet today the name of a gentleman from Washington who I worked with for more than a decade in trying to resolve various issues and that was Al Swift. Both of us entered into that relationship in a very honest way but, frankly, we were overcome by the circumstances in which we found ourselves.

I am very pleased, therefore, that we started this series of hearings off with the Speaker and the Minority Leader both urging us to move forward.

Mr. SHAYS. And as Chairman of the Committee.

The CHAIRMAN. Well, that is a little different. Maybe that is why it is being done the way it is being done. I would like to think that. Let me just ask a couple of questions before my colleagues do.

Marcy Kaptur indicated that she has a series of bills that she is interested in, the ones that give her the most comfort are those that directly deal with a constitutional amendment to move around what we consider obstacles in large part based upon legislation passed in 1974, 1976, and with the Supreme Court decision of *Buckley* v. *Valeo*.

Anyone else here feel uncomfortable trying to move legislatively, for example, to ban Political Action Committees? Obviously, the highest comfort level would be a constitutional amendment but, oftentimes, that places the bar so high that you may not be able to achieve it.

Any reaction at all in terms of a legislative ability to ban PACs or is there a First Amendment freedom of association and contribution aspect here?

Mr. WAMP. Mr. Chairman, I want to say that I commend the framers of the bipartisan Clean Congress Act of 1995 for their look-back provision in the event you have a constitutional question because that is the cure, from my perspective, and I support that component of their bill. I don't support the public financing component or I would be a cosponsor of their bill, but that is a very ingenious way to approach this, and I think if you do ban PACs, make sure we have got a built-in look-back provision so we can fall back to $1,000 in the event you have a constitutional question.

Mr. POSHARD. Mr. Chairman, with respect to the cases that you just referenced, there is some real honest debate as to whether or not the PACs have been ruled unconstitutional by the Supreme Court.

The CHAIRMAN. No, ruled constitutional.

Mr. POSHARD. I am sorry?

The CHAIRMAN. Ruled constitutional. They may not have been a central focus.

Mr. POSHARD. Banning PACs, I am sorry.

The CHAIRMAN. Correct. I am with you.

Mr. POSHARD. I think there is a real question as to whether or not that banning PACs would be ruled unconstitutional, and I certainly would support Marcy's efforts and others were that the case but, again, this bill does have a fall-back provision in it.

The CHAIRMAN. And the additional discussion would be that if, in fact, PACs are constitutional, does coming together voluntarily to contribute money allow you to contribute more than a single individual necessarily as a constitutional right as well? And there are a series of questions that I think we have to kind of place in hierarchial relationship and make decisions from that.

Marcy, in terms of your foreign corporations, you indicated that PACs were controlled by foreign corporations. By that, I assume you mean that because the Federal Election Commission and others have indicated that the administrative costs of a PAC can be borne by a corporation that it doesn't have to be paid for out of the donations collected by that PAC, that that is the way in which they are controlled because, basically, we are dealing with employees of a corporation who voluntarily come together and contribute their own money, except for the administrative costs that are paid for by the corporation.

Ms. KAPTUR. I think if you read the bill, Mr. Chairman, the key to our definition goes to the ownership of the parent entity, and the way we have defined it in our bill is that a "foreign-owned corporation" means a corporation that is at least 50 percent controlled by persons other than citizens or nationals of the United States.

The same is true for the trade associations, where it goes to the ownership and the amount of money, who is really paying for that entity to be incorporated and operating. Even though it may be true that U.S. citizens can contribute here in the United States to a PAC controlled by one of those corporations, the fact is, those corporations are owned by corporations from other lands, individuals from other lands. That is the issue we are probing here.

The CHAIRMAN. So you are focusing on the ownership of the corporation notwithstanding whether the administrative costs come out of the contributions of the individuals or not?

Ms. KAPTUR. That is correct.

The CHAIRMAN. I wanted to clarify that.

Ms. KAPTUR. Because it would be the interest of the foreign corporation, the international markets that would govern its interest in our marketplace.

The CHAIRMAN. Thank you.

Does the gentleman from California wish to inquire?

Mr. FAZIO. Yes. I am kind of interested to get a reaction across the panel on a couple of things. First of all, I just thought for the record, since most of you are interested in in-state or in-district contributions as a way to clean up the system, the CRS has done an analysis that shows in the 1994 election cycle, using only what they could learn from the FEC, those who donated over $200, the percentage of out-of-state contributions constituted 15 percent of the Senate and 7 percent of the House.

Now, that does exclude PACs, and the question, of course, is where are PACs from? And they are not all from K Street because I think most of us believe that 90 percent of all the PACs we re-

ceive money from at least have people in our district, Teamsters, teachers, farmers, you name it. I am sure there are some corporate PACs that don't have much tie to our districts, but their interests go across the spectrum and they are not only interested in what may apply to one corporation.

It means that we would need to go, if you feel that we would have an inadequate amount of money to spend and certainly there are those who think we can barely compete with the rest of the marketing that goes on in our society. At the levels we spend today, we would need to go to some other sources if PACs were outlawed and we were limited in our individual fund-raising to in-district or in-state.

How do you feel about, one, the influence of personal wealth, which we see increasingly in the Congress? The Speaker pointed out today that we have three times as many millionaires as when—in the House, as when Mr. Thomas and I were elected, along with him.

And as an alternative to individual wealth, how do you feel about political parties having more fund-raising capability and more donating capability as would fill in where we have reduced the influence or eliminated the ability to give of other entities? How do you see the shifting potential of one sort of money to another?

How would you rank those alternatives in your list of acceptable to less-acceptable methods of funding campaigns?

Mr. WAMP. I will take that.

The CHAIRMAN. Why don't we start with Zach and go down the line. That is an easy way to organize it.

Mr. WAMP. Quickly, on your first point, I would point out that in my bill, which I think you need to address that majority in-state is not just majority, it is majority of your money has to come from individual contributors from your home state. By definition, PACs can only contribute less than half of your money, and I do that on purpose because that combination reduces the influence of PACs.

Wealthy contributors is a real problem, and I think you are right on target there, and I think you have to address it two ways. One, that they can't repay themselves but a certain amount of the money that they loan themselves after the election. It is absurd that multi-millionaires can spend money and then turn around and ask the very people that they are working on behalf of in the Congress for the money back to pay themselves back.

So we should limit somehow the amount of money that they can repay themselves or even possibly have a provision which I have heard Brian Bilbray recommend, that if an individual spends a lot of their own wealth in their election, that as soon as they go above a certain threshold, that other rules would apply to their challenger, so that they can somehow tap into sources to equalize the playing field.

But I don't think spending limits is the solution. I think these other options are.

Mr. FAZIO. Glenn.

Mr. POSHARD. I guess, in addition to what Zach already referenced, it seems to me that if we even the playing field and give more people an opportunity to run for the Congress of the United States, right now, unless you do have a considerable amount of per-

sonal wealth, or you have worked in the party structure for a number of years so that you have got the party machinery behind you when you run, you are just eliminated from competing for a congressional seat.

How do you do it? Well, 99 percent of the people in this country don't participate in day-to-day operations of party machinery. They are not precinct committeemen. They are not ward captains.

Mr. FAZIO. In many parts of the country, the party machinery is in deep rust, if it exists at all.

Mr. POSHARD. Exactly. So to the extent we even the playing field, we lessen the chance of people with a great deal of personal wealth taking front and center stage in our political process.

Mr. FAZIO. Marcy.

Ms. KAPTUR. Yes, Congressman Fazio. I have a great prejudice against personal wealth being used in political campaigns, certainly campaigns for Congress, and would seek to have the lowest dollar amount possible imposed. That is why I like the idea of the constitutional amendment where we first fix a ceiling and, hopefully, the individual then could be limited to whatever the maximum amount would be.

Let us say it is $250 that would ultimately be established in that system. But I remember in my first race, my opponent raised more money, I think, in the first two months than our entire family and all of our relatives were worth, but he could hold one fund-raiser and in one evening raise $40,000.

It took us six months, through very small donor events, to even come close to that. So I understood what we were up against. And I think that is unfair. It advantages those who have a lot. This isn't a plutocracy or an oligarchy. This is a country where we want people to run on the basis of their ideas. So if some of that money could be donated to political parties, I have no problem with that as a way of screening candidates and helping people learn a little bit about voter registration, what it is really like to run in campaigns.

But I have a strong objection to the kind of self-funding that we see, by the way, operating at the presidential level now, even in New Hampshire, when you see who can buy television time and who can't, just because you happen to have been especially blessed with wealth, you are more valuable than the people who have spent their lives serving their communities and serving their states? So I think that we have to severely limit the amount of self-funding that can go on.

The CHAIRMAN. Linda.

Ms. SMITH of Washington. When the Chair runs out, it is still okay, right?

The CHAIRMAN. No, no, we will finish the question. I think it is a worthwhile one.

Ms. SMITH of Washington. I was just teasing you.

This was real hard for me because I ran campaign reform in the State of Washington and I actually ran an initiative with the title that said, there will not be spending limits or public funding and won with that title, three to one.

I have always been against spending limits and yet I have always been troubled with the fact that people can walk in more and

more and buy an election. So I collided with myself this year working with the bipartisan group, and the reason the bipartisan bill has become the bill that I am helping with is that it does deal with the wealthy in a responsible way, in voluntary limits, and it does not use public funding. And that was important to me because I don't support public funding.

What it does, though, is it says, you sign in to an agreement and there will be an embarrassment factor if you don't. That is editorializing. But you sign in to an agreement, and as long as the limits are high enough, which they are in this bill at $600,000 in the House, you end up inhibiting a wealthy person from buying the election.

This says you can use up to 10 percent of your own money and, if you do not buy in, you have consequences. When you buy in, you do have discounted media.

Now, that was a little hard for me, too, but discounted is quite different than mandatory or government paid. And we believe under *Buckley* v. *Valeo* that will give us reasonable limits, balanced by an elimination of PACs, an elimination of special interest PACs here having their lobbyists become individuals, the individual lobbyists getting $400,000 and spending half in individual donations and ending up with the same problem we have now, large contributions.

So this should work for the wealthy; voluntarily, yes; not as tight as what Marcy says, but I would love to run against a wealthy person that refused to sign a reasonable agreement when we have that now as a part of a law.

So I think it is time that we deal with the issue of wealth buying elections.

Mr. SHAYS. I am told that 25 percent of the Senate are millionaires and 14 percent in the House and that is a pretty alarming figure. That is certainly not representative of what the makeup of our country is.

To me, the biggest challenge with Political Action Committees is that lobbyists use them in their attendance at fund-raisers down here, and I think getting rid of PACs ends that, what I think is the pretty obscene process of Members of Congress inviting the lobbyists to contribute to their campaign. Maybe I am overstating the obscene part, but it just causes me concern.

In terms of Mr. Fazio, your comment about political parties, soft money has become an addiction to political parties. I mean, a corporation can literally give $100,000, $200,000. The largest and most successful campaign—excuse me, casino in the country, in my state, has given $400,000 to the political parties. It shouldn't—you know, I don't think we need to be rocket scientists to understand what that means and why it is happening. So I think that our parties need campaign contributions, but they shouldn't be so dependent on the soft money and you need to get at the soft money problem.

And I would just say——

Mr. FAZIO. Chris, can I interrupt at this point?

Mr. SHAYS. Sure.

Mr. FAZIO. My intent was not to deal with soft money although it is a very important issue. It is to say how much more should you

give parties the ability to give to candidates, in other words, hard dollars, but increasing their share? In other words, are we interested in strengthening parties?

Mr. SHAYS. I am interested in strengthening parties, but I am not interested in having a party end up getting hundreds of thousands of dollars through soft money and basically passing it on to the candidate, and that is where the trouble is.

Mr. FAZIO. They really can't pass it on to the candidate, but it does provide more of their overhead, thereby freeing up money to give to the candidate.

Mr. SHAYS. I should have said it that way. It covers all their other costs and then they should just dedicate the rest of it to people. But I do think the political parties should have some money to share with candidates that are important to that political party. I think that has to fit in your mix.

I just want to express, again, my conviction that a voluntary limit on campaigns done in the way the bicameral and bipartisan reform group has done, has tremendous merit, because if I run against somebody wealthy, I sign up for that $600,000 requirement, I am able to get media at a discount.

I am able to get free mailings to my district at the lowest cost. My opponent who then goes above the limit is not able to get that benefit, but then we have a provision in our bill that allows us to spend 50 percent more to go to $1.2 million—excuse me, to go an additional $300,000, to go to $900,000.

The CHAIRMAN. Just let me, because I may be remiss if I do not say it, Chris, in the 103d Congress, the Republican conference had a campaign finance reform bill in which we prohibited any soft money. We said any money not raised under Federal campaign rules could not be used to influence, not just give directly to candidates, but to influence Federal elections. It was a very controversial, very difficult position, but in discussing with the national committee and others, we felt very strongly and your position was well represented.

Mr. SHAYS. Could I just comment?

The CHAIRMAN. If you will recall, the Republican Conference went against soft money.

Mr. SHAYS. But the key will be now that we are in power.

The CHAIRMAN. I understand that, and that was nice groundwork.

Mr. FAZIO. If the Chairman would just briefly yield, you know the Democratic bill also did away with soft money. That, of course, didn't come to fruition either.

The CHAIRMAN. Was that the one President Bush vetoed or the one that——

Mr. FAZIO. The one that almost got to President Clinton as well as the one that President Bush vetoed. But I must say, part of that was a desire to increase hard dollar giving to the campaign committees to replace a very small amount of what would have been eliminated through the elimination of soft dollars.

The CHAIRMAN. And then just finally, just to give you an idea that we have read the bills, I have some concern in terms of your third-class mailing availability and the way in which it is funded because, basically, as I understand the bill, and correct me if I am

wrong, it says that the post office is supposed to absorb the cost. And preliminary estimates from the post office are in the neighborhood of 40 to 60 million. They are going to refine them for us.

That is, I think, a kind of a secondary public financing because, frankly, the costs of delivering the mail will go up if that is accepted. I understand the way in which bills go together but, as we move through the process, I think we have to be more up front in terms of how we provide various benefits and just to show you.

Mr. SHAYS. Can I comment on that?

The CHAIRMAN. Just to show you how I have been thinking about it, because I have advocated this in the past and it is nothing new, we already have incumbents who have money available for mailings and it is possible that we might—and that is already covered in terms of taxpayers' dollars—we might figure out a way to share in, any bona fide primary opponent to share in the franking costs that incumbents already have built into the system. That would be no new dollars to the system.

Ms. SMITH of Washington. Yes, I like that.

The CHAIRMAN. For instance?

Ms. SMITH OF WASHINGTON. I just like it. You are going to take some of our franking and give it to our opponents.

The CHAIRMAN. Any qualified primary opponent would be able to share in the funds available already paid for by taxpayers for informing voters. That is no new money.

Mr. SHAYS. What I would——

The CHAIRMAN. Radical, but no new money.

Ms. SMITH of Washington. Not radical.

Mr. SHAYS. But what is exciting is you are thinking about these issues and I think it is very important. I just make the point to you that the rate that would be provided to a candidate would be the rate that we provide for the cheapest nonprofit. So it is not something that we don't give other citizens in this country. I just want to make that point.

The CHAIRMAN. I understand, but it is a cost in the bill absorbed by the post office.

Mr. SHAYS. Definitely a cost, clearly.

The CHAIRMAN. Does the gentleman from Michigan wish to inquire?

Mr. EHLERS. Thank you, Mr. Chairman. Most of those I wish to question have left the room, perhaps wisely, but perhaps we also can't consider their bills then.

As president of the sophomore class, I do have to take issue with the gentleman from Tennessee when he describes the new freshman class as the purest and best class elected during his lifetime. I think we should set the record straight on that.

The CHAIRMAN. Would the gentleman yield?

Some of us don't remember which class we were in but we take offense as well because we think ours was best, whichever one it was.

Mr. EHLERS. Correct. I do have one question for the gentleman from Tennessee, and that is you described at some length why you thought PACs are not good, almost evil, and yet you continue them in your bill. You simply reduce the limits.

How do you balance that out? If they are that bad, why shouldn't we just get rid of them?

Mr. WAMP. Well, again, I am a cosponsor of, I think, three other bills that ban PACs and I am all for banning them. But I tell you this, I don't want to go one more Congress without doing something on campaign finance reform. It has been 21 years while we have been trying to—you know, some people are pure and want them banned and some people don't want anything.

You can't get 218 people and 51 people in the Senate to agree on anything. So I boiled it all down to something I thought we could move forward. I want some progress. We can come back later and try to ban them. Let's at least bring the limit down to the same level as individuals in the 104th and then come back in the 105th and try to go the whole way.

Mr. EHLERS. So your bill basically is a pragmatic approach saying this is the best we can do at this point?

Mr. WAMP. Yes, sir.

Mr. EHLERS. In your judgment?

Mr. WAMP. Yes, sir.

Mr. EHLERS. Good. Thank you for clarifying that. I have no further questions, Mr. Chairman.

The CHAIRMAN. Does the gentleman from Arizona wish to inquire?

Mr. PASTOR. Mr. Chairman, this is not really a question. It is interesting sitting here most of the day listening to various ideas, and I want to thank all of you for sharing your thoughts and your ideas. We started with the Speaker and went with the Leader and a number of panels, and one of the comments that stuck in my mind, from the Speaker, was that this is not a new problem.

Financing of campaigns and reforming campaigns has been going on for many years. In fact, Political Action Committees in the 1970s were an answer, in the sense of reform, so that individuals could form these committees and they would not have the problem of individuals, wealthy individuals, dictating campaigns.

But it is interesting because some people want to get rid of PACs because, like Mr. Ehlers stated, they could influence the winner of an election. Then they influence the person, once they are in Congress, and give an unfair advantage to incumbents. So there are many reasons why we feel as we do about Political Action Committees.

It is interesting because we had one panelist talk about total public financing, that the route to go is total public financing. That way you don't have to worry about any influence. Anyone who qualifies would have access to TV, radio, et cetera.

Earlier I asked the question, do you have any problems with unlimited donations by individuals, only that disclosure be immediate and frequent. So there is a whole spectrum of ideas. But I would agree with you that we need to look at campaign reform, lobbying reform and all of them together, to see what we can do to ensure that the image of elected officials is a little better than it has been in the past.

So I look forward to working with you in a bipartisan fashion to see what is practical and what will—what can—solve the many in-

terests that we have in this effort. Thank you for participating and I look forward to working with you.

The CHAIRMAN. Does the gentlewoman from Washington wish to inquire?

Ms. DUNN. Thank you.

The CHAIRMAN. It has been a long day.

Ms. DUNN. Yes.

Mr. Wamp, I want to reassure you, I think your position on PACs is the right position. I happen to believe personally that people do have a right to gather together and make their impact felt, whether it is a local business organization from one of the towns that I represent, or a larger group that has some particular interest, or simply a group who believes in electing people who are going to support good government and a good conservative agenda. I think that is just fine.

I like your energy on this issue, and I think that element of your plan, plus the other element, which is requiring a certain number—a percentage of donations from within your State—is very wise. Those are two of maybe four elements that I think must be involved in some plan that we put together, to change the current finance system, the others being taking a look at bundling and creating incentives for small donors to come on board.

I have in the past, in my bill, provided incentives, a tax credit for $100 donors or less. So I think that is great.

Chris, it is great to work with you again. Your vision, your credibility, the work we did on the Contract, make you a great headliner for this issue because you are absolutely right, we must take action.

This morning the Speaker promised us that by the end of this session, we would have a bill. It is very important for us to move forward knowing that is the deadline. I believe every single one of us wants to accomplish this, certainly because of the difficulty in the number of important changes that we must make in government right now. It can't be the top item on the agenda and wasn't at the beginning of this year, but should be between now and the time we finish.

Ms. Kaptur, it is always good to hear from you. You are very thoughtful and I am very much interested in what you are proposing and will be interested to see what the Judiciary Committee says on your constitutional amendment.

But I am going to take special consideration here, Mr. Chairman, if I may, because we have a person from my home State of Washington who has done a lot of work in campaign finance reform. She was, in fact, part of a very effective team in the State of Washington that began in 1991 to write an initiative to qualify it for the ballot, to send it to the legislature and then, in 1992, to pass campaign finance reform in our State of Washington. So I would simply like to ask our Congresswoman, Linda Smith, to give us a review.

How do you think it is working, Initiative 134, and should we have done anything different on this issue, Linda? Are you pleased with the results?

Ms. SMITH of Washington. That is pretty broad, but I appreciate the question because often when you start something you want to know if it is going to work. We are now three years into com-

prehensive reform and we started in the 1980s drafting it and the coalition had Common Cause in it. It had some of the other groups, and very diverse conservative and liberal groups with the same goal, and that was to take the money out of the process in Olympia.

We started, first of all, Olympia being our capital, with eliminating fund-raising at the source. So we can no longer raise money from any source while we are voting. Now, we only vote half a year—but the emphasis was to take the money away from the voting process.

It has been very effective in a lot of ways. The confidence level, the sleaze factor, the bad reports that we got are just not—they have not been for a couple of years. We then debated whether we would eliminate PACs or limit them. I wish we had eliminated them. I think now, looking at *Buckley* v. *Valeo* after 20 some years, we could have. We have upheld—been through one Supreme Court case and won.

But we did leave $500 involvement over a four-year Senate race, and so a group can do that. We eliminate what they can do in the month of the election to very, very little, and we stopped the transfer of money between candidates and the buying of leadership. We abolished leadership PACs and said, if you get the money, you have to use it for yourself.

What that ended up doing was something we call now term limits. The old-timers that didn't like that very well, because they couldn't sit there and let the money come to them, didn't run. We ended up having a flip of 60 some percent to 30 some percent. We nearly had 50 percent new members in the full election cycle.

The voter turnout went up substantially more than it had ever been and the involvement of the citizens' groups and the individuals went up. So what we saw was a one-third drop in the overall spending. The incumbents had more trouble getting the money. Challengers had greater ability. We had more start-up campaigns than we had in the history of our State and grassroots politics took over.

So I guess what I am going to say is it has worked. The third that came out, came out of the top 15 giving groups, you all know what they are. They are the same ones here. And when it dropped out, it did drop out of incumbents.

And the reason we had so much trouble running it was incumbents were getting that money and they would never pass anything. When we finally took it out of the legislature to the people, they passed it three to one and, yes, the money dropped out of incumbents, but challengers had a greater chance.

And I think, Jennifer, that it is working. The only ones that don't like it are the biggest ones. The rest of the lobbyists like it now. Most of the groups like it now because they can compete. Before, if you were not at the top of the pile, you could never get enough money to compete and so the older lobbyists that even fought it now seem to like it. The old incumbents, I will tell you, though, the older the incumbent, they either dropped out or still don't like it because they have to go raise money from people.

Thank you, Jennifer.

Ms. DUNN. Thank you, Mr. Chairman. I see my time has run out.

The CHAIRMAN. Thank you. I thank all of you. This is the first hearing on campaign finance reform.

The gentleman from Connecticut.

Mr. SHAYS. If I could just say for the record, that my staff has reminded me that the bill that we introduced—that what we have is H.R. 2566 includes a provision that any savings of unfranked mail would go to pay, in part, for the costs, and it also bans unfranked—unsolicited franked mail in the election year.

And I also just want to say I didn't notice Mr. Pastor when we started out. I just appreciate his interest in this bill. I addressed everyone else. I didn't see you tucked away in that corner.

The CHAIRMAN. I think there has been an unusually high interest in campaign finance reform in this Committee. It is just that all of us have schedules to keep, and I appreciate you folks staying when today's Floor session has already ended.

And what I was saying was that this is the first in a series of hearings on campaign finance reform. We will have another one on November 16th, beginning at 10:00 a.m., which will be dealing with PACs.

The Members who appeared today have legislation. They are interested in change. There are a number of Members who think the current system works okay and they are not here because they don't have bills for change. We will have other Members on November 16th and we ask practitioners, those who actually involve themselves in the PAC structure, to come and testify in front of the committee, which probably will be the other side of the story, because what we want to do is inform ourselves in all of the aspects of how our current system is working.

I think one of the problems in the past has been that we hadn't fully appreciated what we did before we started trying to change it and it produced unintended circumstances which then required us to go ahead and make additional changes and we have been chasing the changes.

What we are going to try to do is to get as much broad-based information as possible so, when we move forward, we try to educate as well everyone about the consequences of the changes. I want to thank you very much for your participation in this committee and I will probably be seeing some of you in additional hearings as we move on to other subject matters as well. Thank you all.

This hearing is adjourned.

[Whereupon, at 3:50 p.m., the committee was adjourned.]

HOUSE CAMPAIGN FINANCING: 1970's REFORM ERA

Federal Election Campaign Act of 1971

Disclosure

House candidates and PACs file regular disclosure reports.

Contributions of more than $100 must be disclosed.

Contributions of $5000 or more disclosed within 48 hours.

TV/Media

$50,000 spending limit for media advertising by House candidates (**repealed** in 1974 amendments).

Broadcasters required to sell time at lowest available rates before an election.

Personal Spending

House candidates limited to spending $25,000 of personal money. (Candidate personal spending limits **invalidated** in Buckley v. Valeo, 1976.)

HOUSE CAMPAIGN FINANCING: 1970's REFORM ERA

Federal Election Campaign Act Amendments of 1974

Contribution Limits

Individual limit of $1000 per candidate per election (individual cumulative contribution limit of $25,000 to all federal candidates and PACs).

PAC limit of $5000 per candidate per election (no cumulative limits).

Limit cash contributions to $100.

Congressional Spending Limits

Imposed $70,000 spending limits on House candidates for each election (primary and general). [**Invalidated** in Buckley, 1976.]

Independent Expenditures

Limited independent expenditures to $1000 for or against candidates. [**Invalidated** in Buckley, 1976.]

Other:

Allow national or state political party committees to spend additional amounts on behalf of their candidates.

FEC established to administer Federal election laws.

HOUSE CAMPAIGN FINANCING: POST 1974 CHANGES:

Buckley v. Valeo, 424 U.S. 1 (1976)

Landmark Supreme Court Case

Upheld contribution limits and disclosure requirements of FECA (as amended in 1974). "The primary governmental interest served by the act -- [is] the prevention of actual and apparent corruption of the political process."

Spending Limits

Overturned spending limits as unduly burdensome on political expression with no overriding government interest.

Overturned limits on candidates' use of personal funds, overturned $1000 independent expenditure limits for individuals or groups, and overturned $70,000 House spending limits.

FEC

Invalidated appointment of FEC members by Congress because the Commission exercises executive branch functions. (FEC composition changed by Congress in 1976 Amendments).

HOUSE CAMPAIGN FINANCING: POST 1974 CHANGES:

Federal Election Campaign Act Amendments of 1976

Enhanced Disclosure

Independent expenditures over $100; disclosure within 24-hours if expenditure is $1000 or more and made within 15 days of an election.

Internal partisan communications exceeding $2000 by unions and corporations.

Contribution Limits

Individual contributions limited to $5000 to PACs; $20,000 to national parties.

PAC contributions limited to $15,000 to political parties' national committees.

Adopted solicitation rules for fundraising by PACs associated with unions, corporations and trade associations.

FEC

Increased FEC enforcement authority and responsibilities in issuing advisory opinions.

Reconstituted FEC with all members to be appointed by the President.

Federal Election Campaign Act Amendments of 1979

Disclosure & Reporting

Candidates and local parties raising or spending less than $5000 per year exempted from reporting.

Raised the receipt and expenditure reporting threshold from $100 to $200, increased threshold for itemizing independent expenditures from $100 to $250.

Excess Campaign Funds

Prohibited personal use of excess funds unless the candidate was in office at the time of enactment (Congress revoked "grandfather clause" in 1989).

HOUSE CAMPAIGN FINANCING: CURRENT SYSTEM

Disclosure

Campaign reports filed with Clerk of the House, transmitted to FEC (1971). HR 2527, awaiting floor action, requires direct filing of reports with the FEC and reduces the delay in public disclosure by 1-3 days.

Contribution Limits

Individuals: $25,000 annual cumulative limit (1974), composed of up to:
$20,000 to national political committees (1976);
$5000 per PAC (1976); and
$1000 per candidate per election (1974).

PACs: $5000 per candidate, per election (1974);
$15,000 per year to national political committees (1976); and
$5000 to other political committees (1976).

Candidate Personal Spending

No limits (**Invalidated** in Buckley, 1976).

Independent Expenditures

No limits (**Invalidated** in Buckley, 1976).

TV/Media

Broadcasters required to sell lowest available rates for 60 days prior to general election (1971).

JERRY F. COSTELLO
12TH DISTRICT, ILLINOIS

PLEASE RESPOND TO THE OFFICE CHECKED BELOW

COMMITTEES:
BUDGET
TRANSPORTATION & INFRASTRUCTURE
SCIENCE
(ON LEAVE)

Insert (2)

Congress of the United States
House of Representatives
Washington, DC 20515–1312

Testimony of Representative Jerry F. Costello
Committee on House Oversight

November 2, 1995

Mr. Chairman, thank you for the opportunity to testify before this committee. The time for real campaign finance reform has come. It has been about 15 years since Congress dramatically changed the way congressional campaigns are financed. The cost of election are too high, and the American people do not feel they play a very important role in this process. My bill is an effort to change that process. My bill gives individual citizens the ability to determine who will represent them in Congress.

For too many years, Republicans and Democrats have been in deadlock over two issues - PAC money and "soft money." This bill addresses both problems and adds a requirement of total in-district financing, giving the district's voters a direct role in the financing of that campaign.

My bill, the Campaign Finance System Reform Act, incorporates many of the strictest proposals for overhauling our present campaign system into one bill. The cornerstone of this bill is the prohibition of the acceptance of PAC funds.

Under current law, PACs can contribute up to $5000 per candidate for each election. The number of federally registered PACs grew from 608 in 1974 to more than 4000 in 1992. The amount PACs contributed to congressional candidates during that time period rose more than 400 percent. There is a perception by many that PAC contributions may influence how a candidate votes on issues. While we know this is not the case, even the perception of impropriety by Congress must be taken seriously and be addressed.

PACs are not eliminated under my bill; rather, HR 1427 prohibits House members from accepting PAC contributions.

Jerry F. Costello

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GOVERNMENT REFORM
AND OVERSIGHT

VICE-CHAIRMAN
TRANSPORTATION AND
INFRASTRUCTURE

SUBCOMMITTEES:
AVIATION
SURFACE TRANSPORTATION

Congress of the United States
House of Representatives
Washington, DC 20515-3805

Testimony of
HON. WILLIAM F. CLINGER, JR.
of Pennsylvania
before
House Committee on Oversight

Campaign Finance Revision
Political Action Committees

November 2, 1995

Mr. Chairman, I commend you and your committee for holding hearings on the matter of campaign finance reform. I regret I cannot be here in person due to prior commitments, but I appreciate the opportunity to submit written testimony for the record.

The American electorate is frustrated with our campaign finance and electoral system. They believe that too many elected officials, particularly Members of Congress, are returned to office election after election without regard to their performance. American voters feel disenfranchised and alienated by the current political system. They think neither their votes nor their views matter to those they elect, and voter turnout patterns reflect this.

The term limits movement and Perot phenomenon are outgrowths of this alienation. For some time, the people have wanted change in our electoral system, but Congress has failed to deliver any meaningful reform. Term limits and candidates such as Perot have promised this change, and the people have clearly responded.

And the public's concern with the current system is not baseless. Many congressional races are not competitive due in large part to the built-in reelection advantages of incumbents. Generally, office holders benefit from greater name identification, franking privileges, and easier access to campaign contributions from PACs and congressional campaign committees.

Though Congress has experienced dramatic turnover in recent elections and nearly half of the current House membership was first elected in the 1990's, the reelection rate for incumbents remains above 90 percent. Many Americans view these incumbents as out-of-touch "career politicians" who are responsible for the mess in Washington, and they see term limits as the only means of "throwing the bums out."

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And no one can deny the popularity of term limits. Twenty-three states have adopted term limits for Federal office holders, many of them by statewide ballot initiatives. According to polling, 80 percent of Americans support term limits.

Nevertheless, I believe there is a better solution than term limits -- campaign finance reform which levels the playing field between incumbent and challenger. The reason for this is that campaign finance reform attacks the root of the problem -- the incumbent's reelection advantages -- without dictating to voters which candidates than can and cannot vote for. While term limits address the problem with a meat cleaver, campaign finance reform does so with a scalpel.

As I already mentioned, one of the biggest advantages for incumbents is the subject of today's hearing -- Political Action Committees. Elected officials have greater access to special interests and their PACs. Each election cycle, over 80 percent of PAC contributions are funnelled to incumbents. And if an overwhelming majority of an incumbent's war chest comes from PACs, challengers will not be able to compete.

I've introduced several bills that would help put incumbents and challengers on equal footing, primarily by altering the role of PACs in congressional elections. The legislation would make elected representatives more accountable to the people who elect them and diminish an incumbent's ability to rely on special interests for campaign funds.

H.R. 1692 would raise the ceiling on individual contributions from $1,000 to $2,000 per election, and cut in half the maximum PAC contribution from $5,000 to $2,500 per election.

H.R. 1693 would eliminate leadership PACs.

H.R. 1694 would require that the residents of a candidate's district provide the clear majority -- 55% -- of the candidate's campaign funds.

H.R. 1695 would establish a 100% tax credit (up to $100 for an individual return, $200 for a joint return) for contributions to congressional candidates, but only if the contributor is a resident of the same state as the candidate.

These ideas are not terribly complicated, and they are not new. Many other members have introduced legislation incorporating these provisions. Nonetheless, I believe they are necessary components of any comprehensive campaign finance reform legislation if we are to emphasize local involvement over special interest influence and improve the competitiveness of races between incumbents and challengers.

Again, Mr. Chairman, I appreciate the chance to share my views on campaign finance reform with you and the committee. I look forward to working with you and others to craft legislation that will restore credibility and public confidence to congressional elections.

104TH CONGRESS
1ST SESSION

H. R. 1692

To amend the Federal Election Campaign Act of 1971 to increase the limitation amount applicable to contributions to candidates in Federal elections by individuals and to decrease the limitation amount applicable to contributions to such candidates by nonparty multicandidate political committees.

IN THE HOUSE OF REPRESENTATIVES

MAY 24, 1995

Mr. CLINGER introduced the following bill; which was referred to the Committee on House Oversight

---

A BILL

To amend the Federal Election Campaign Act of 1971 to increase the limitation amount applicable to contributions to candidates in Federal elections by individuals and to decrease the limitation amount applicable to contributions to such candidates by nonparty multicandidate political committees.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCREASE IN THE LIMITATION AMOUNT APPLICABLE TO CONTRIBUTIONS TO CANDIDATES BY INDIVIDUALS.

Section 315(a)(1)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)(A)) is amended by striking out "$1,000" and inserting in lieu thereof "$2,000 in the case of an individual and $1,000 in the case of a person other than an individual".

SEC. 2. DECREASE IN THE LIMITATION AMOUNT APPLICABLE TO CONTRIBUTIONS TO CANDIDATES BY NONPARTY MULTICANDIDATE POLITICAL COMMITTEES.

Section 315(a)(2)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(2)(A)) is amended by striking out "$5,000" and inserting in lieu thereof "$2,500 in the case of a nonparty multicandidate political committee and $5,000 in the case of a multicandidate political committee of a political party".

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104TH CONGRESS
1ST SESSION

H. R. 1693

To amend the Federal Election Campaign Act of 1971 to prohibit congressional leadership committees.

IN THE HOUSE OF REPRESENTATIVES

MAY 24, 1995

Mr. CLINGER introduced the following bill; which was referred to the Committee on House Oversight

---

A BILL

To amend the Federal Election Campaign Act of 1971 to prohibit congressional leadership committees.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. PROHIBITION OF CONGRESSIONAL LEADERSHIP COMMITTEES.

Section 302 of the Federal Election Campaign Act of 1971 (2 U.S.C. 432) is amended by adding at the end the following new subsection:

"(j) A candidate for the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress, may not establish, maintain, finance, or control a political committee, other than the principal campaign committee of the candidate.".

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104TH CONGRESS
1ST SESSION

H. R. 1694

To amend the Federal Election Campaign Act of 1971 to provide for a voluntary limitation on contributions from other than individual district residents in House of Representatives elections.

IN THE HOUSE OF REPRESENTATIVES

MAY 24, 1995

Mr. CLINGER introduced the following bill; which was referred to the Committee on House Oversight

---

A BILL

To amend the Federal Election Campaign Act of 1971 to provide for a voluntary limitation on contributions from other than individual district residents in House of Representatives elections.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. VOLUNTARY PROVISION FOR LIMITATION OF CONTRIBUTIONS FROM OUTSIDE THE DISTRICT AND FROM OTHER THAN INDIVIDUALS IN THE DISTRICT TO 45 PERCENT OF TOTAL CONTRIBUTIONS TO A CANDIDATE IN A HOUSE OF REPRESENTATIVES CAMPAIGN.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following new subsections:

"(i)(1) Not later than 30 days after an individual becomes a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress, that individual shall file with the Commission a declaration of whether or not the individual will comply with paragraph (2) and paragraph (3). If a candidate in an election for such office chooses not to comply with both such paragraphs, only paragraph (2) shall apply to such candidate and neither paragraph (2) nor paragraph (3) shall apply to the other candidates in the election.

"(2) A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress who agrees to be subject to this section may not accept a contribution with respect to an election if—

"(A) the contribution is from a person other than an individual resident of the district; and

"(B) the sum of the contribution and the total of contributions previously accepted from such persons exceeds the amount equal to 45 percent of the total of contributions accepted from all sources.

"(3) For purposes of paragraph (1), in determining the total amount of contributions from individuals resident in a district, not more than $1,000 in contributions from the personal funds of the candidate may be taken into account.

"(4) In each report of contributions under this Act, a candidate referred to in paragraph (1) shall certify compliance with this subsection.

"(j)(1) If a candidate accepts contributions with respect to a reporting period that exceed a limitation under subsection (i), the candidate, at the time of filing the report involved, shall pay to the Commission, for deposit in the general fund of the Treasury as miscellaneous receipts, a civil fine.

"(2) In the case of reporting periods under section 304(a)(2)(A), the civil fines shall be as follows: (A) 1st quarter report, 2 times the excess amount; (B) 2d quarter report, 3 times the excess amount; (C) pre-primary report, 3 times the excess amount; (D) 3d quarter report, 3 times the excess amount; (E) pregeneral election report, 5 times the excess amount; (F) postgeneral election report, 5 times

the excess amount; and (G) 4th quarter report, 5 times the excess amount.

"(3) In the case of reporting periods under section 304(a)(2)(B), the civil fine shall be an amount equal to the excess amount.".

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104TH CONGRESS
1ST SESSION

H. R. 1695

To amend the Internal Revenue Code of 1986 to provide for an income tax credit for in-State contributions to congressional candidates.

IN THE HOUSE OF REPRESENTATIVES

MAY 24, 1995

Mr. CLINGER introduced the following bill; which was referred to the Committee on Ways and Means

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A BILL

To amend the Internal Revenue Code of 1986 to provide for an income tax credit for in-State contributions to congressional candidates.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986 TO PROVIDE FOR A CREDIT FOR IN-STATE CONTRIBUTIONS TO CONGRESSIONAL CANDIDATES.

(a) GENERAL RULE.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is

amended by inserting after section 23 the following new section:

"SEC. 24. IN-STATE CONTRIBUTIONS TO CONGRESSIONAL CANDIDATES.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the total of contributions to candidates for the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress, for the State of which the taxpayer is a resident.

"(b) LIMITATIONS.—

"(1) MAXIMUM CREDIT.—The credit allowed by subsection (a) for a taxable year shall not exceed $100 ($200 in the case of a joint return under section 6013).

"(2) VERIFICATION.—The credit allowed by subsection (a) shall be allowed, with respect to any contribution, only if such contribution is verified in such manner as the Secretary shall prescribe by regulations.

"(c) DEFINITION.—For purposes of this section, the term 'contribution' has the meaning given that term in section 301 of the Federal Election Campaign Act of 1971.".

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(b) CONFORMING AMENDMENTS.—

(1) Section 642 of such Code (relating to special rules for credits and deductions of estates or trusts) is amended by adding at the end the following new subsection:

"(j) CREDIT FOR CERTAIN CONTRIBUTIONS NOT ALLOWED.—An estate or trust shall not be allowed the credit against tax provided by section 24.".

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 23 the following new item:

"Sec. 24. In-State contributions to congressional candidates.".

SEC. 2. EFFECTIVE DATE.

The amendments made by section 1 shall apply to taxable years beginning after December 31, 1996.

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CAMPAIGN FINANCE REFORM

NOVEMBER 16, 1995

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOUSE OVERSIGHT,
Washington, DC.

The Committee met, pursuant to call, at 10:10 a.m., in Room 1310, Longworth House Office Building, Hon. William M. Thomas [Chairman of the Committee] presiding.

Present: Representatives Thomas, Dunn, Ney, Fazio, and Hoyer.

Staff present: Stacy Carlson, Staff Director; Roman Buhler, Counsel; Jim Sivesind, Counsel; Chris Wright, Professional Staff; Samantha Kemp, Committee Clerk; Janet Guiliani, Staff Assistant; and Laura Buhl, Staff Assistant.

The CHAIRMAN. The Committee on House Oversight will come to order. This is the second hearing in a series of hearings on campaign finance reform.

As you recall, at the first hearing the Speaker of the House and the Minority Leader both gave us a broad perspective of campaign finance; perhaps far broader than most people normally associate with campaign finance.

They went to the heart of the political process and discussed power. I had said at the first hearing that a definition of politics that I think is very useful is an old one. It is the process of determining who gets what, when and how. Power in that context is who are those who help determine who gets what, when and how.

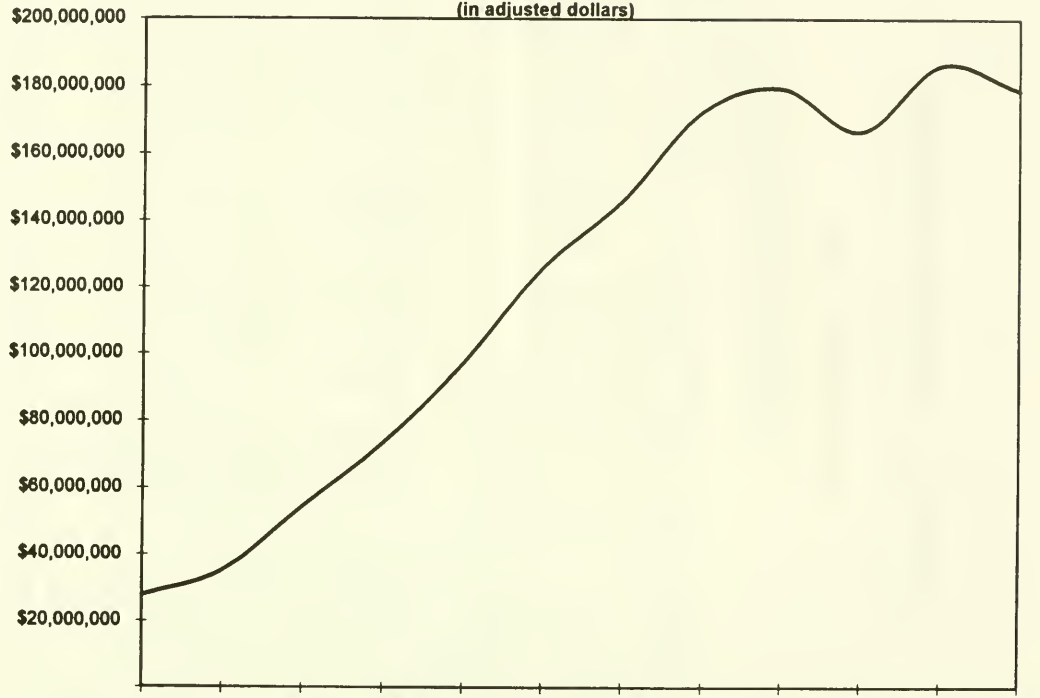
Unfortunately, in this process oftentimes individual's or group's political power is enhanced if other individual's or group's political power is diminished. It sometimes tends to be a relative power struggle.

When we look at the period from the time the campaign finance laws that are currently in effect were initially passed and amended, it roughly corresponds to the period that the Chairman and the Ranking Member from California have been actively involved in elective politics.

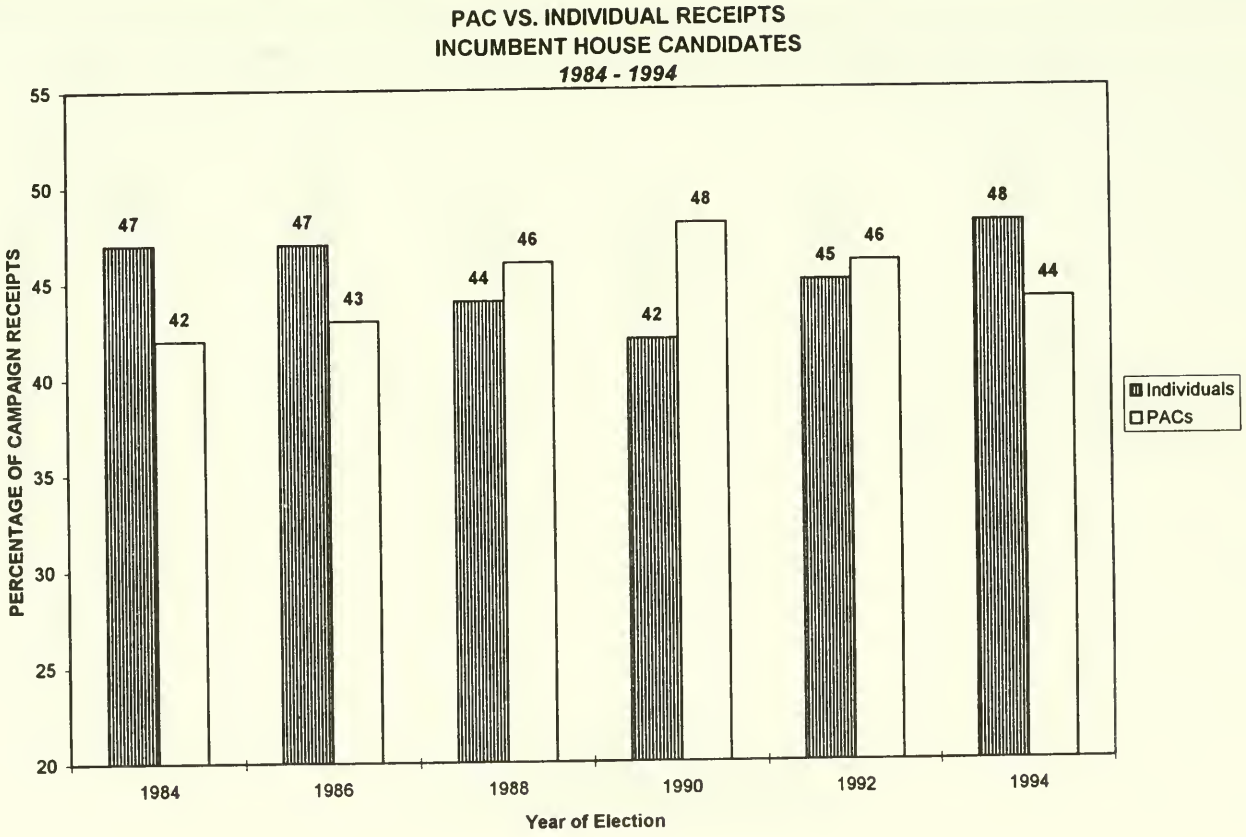
We both were elected to the Assembly in the State of California in the 1974–1975 period. I preceded the gentleman by a matter of a few months. We both came to Congress at the same time. That was the period when the current campaign finance laws were passed and put into shape.

It also roughly corresponds with the era, if you will, sometimes called the PAC era, the growth of PACs. There is a chart there which I think fairly graphically illustrates why you could rightfully identify the period from the mid-1970s to today as the period of the growth of PACs.

CONGRESSIONAL ACTIVITY OF POLITICAL ACTION COMMITTEES
1972 - 1994
(in adjusted dollars)



	1972	1974	1976	1978	1980	1982	1984	1986	1988	1990	1992	1994
Number of PACs:	*N/A*	*608*	*1146*	*1653*	*2551*	*3371*	*4009*	*4157*	*4268*	*4172*	*4195*	*3954*


PAC VS. INDIVIDUAL RECEIPTS
INCUMBENT HOUSE CANDIDATES
1984 - 1994
PERCENTAGE OF CAMPAIGN RECEIPTS
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Year of Election
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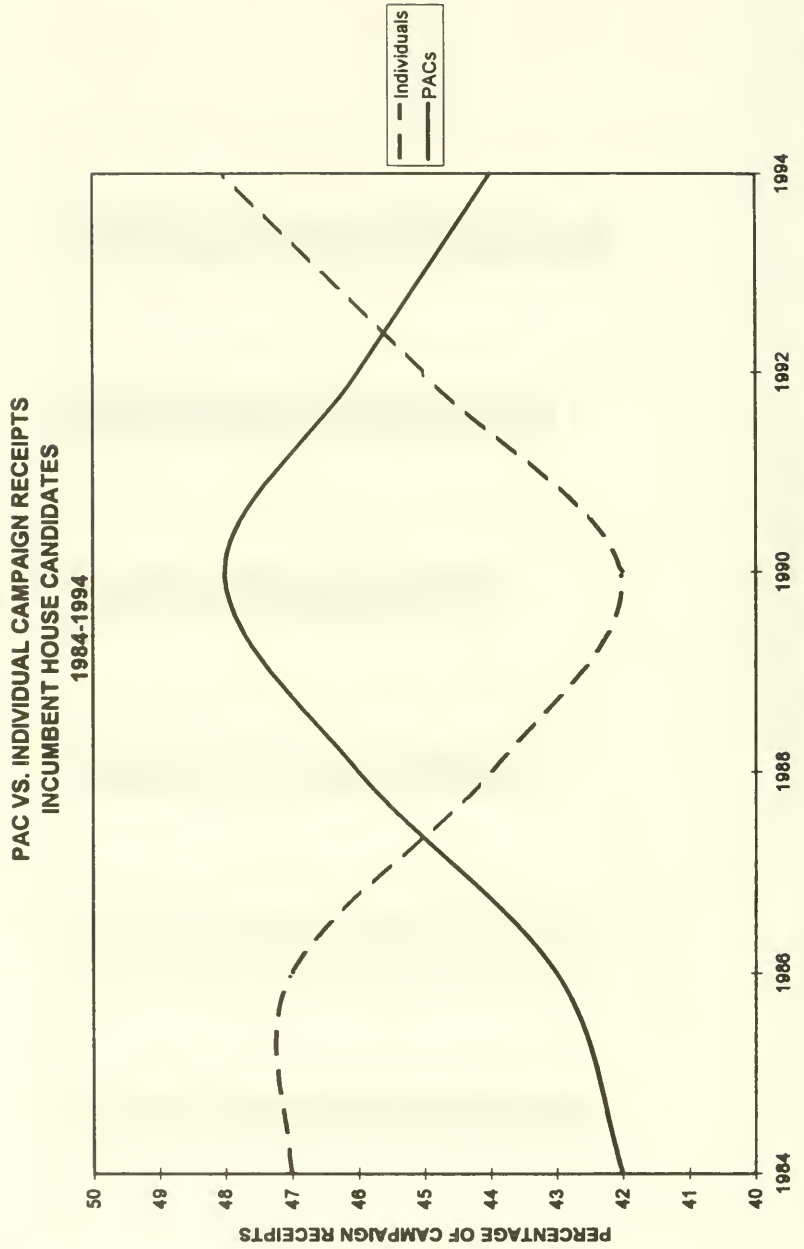
PACs


PAC VS. INDIVIDUAL CAMPAIGN RECEIPTS
INCUMBENT HOUSE CANDIDATES
1984-1994
Individuals
PACs
PERCENTAGE OF CAMPAIGN RECEIPTS
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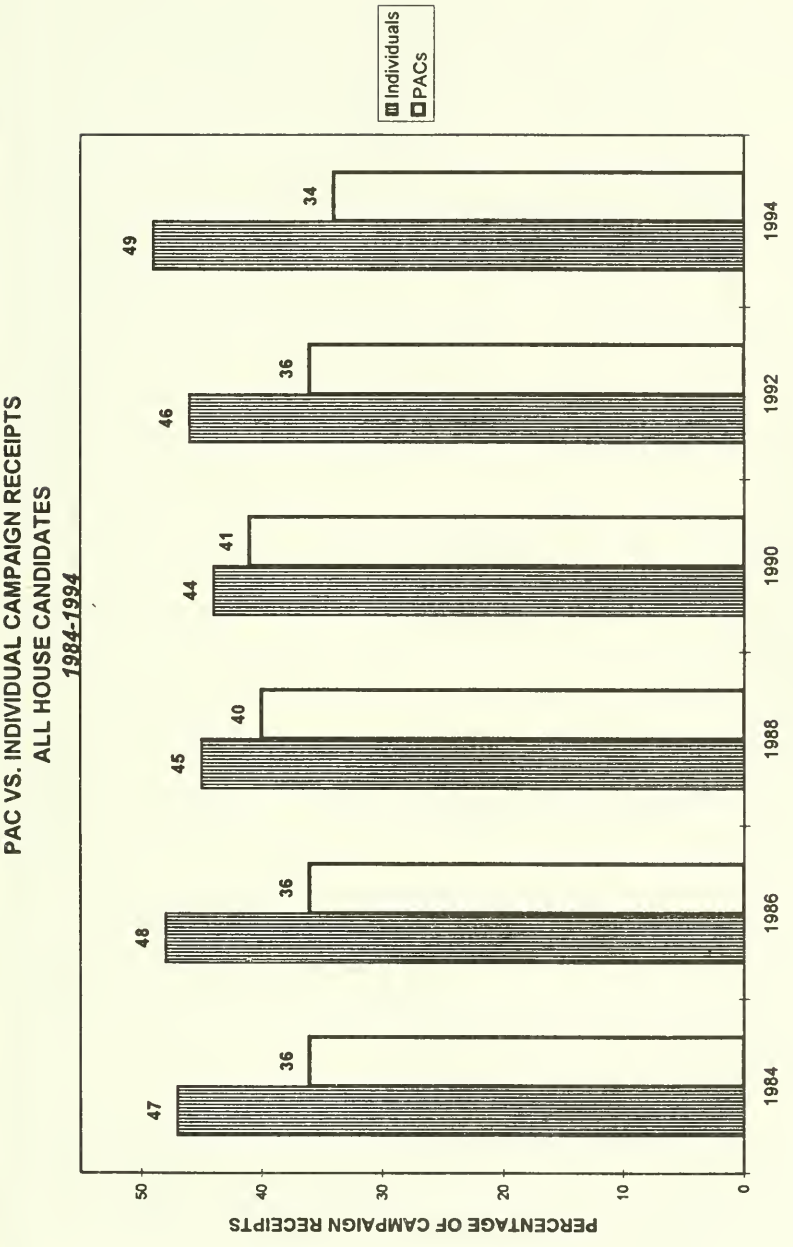
PAC VS. INDIVIDUAL CAMPAIGN RECEIPTS
ALL HOUSE CANDIDATES
1984-1994
Individuals
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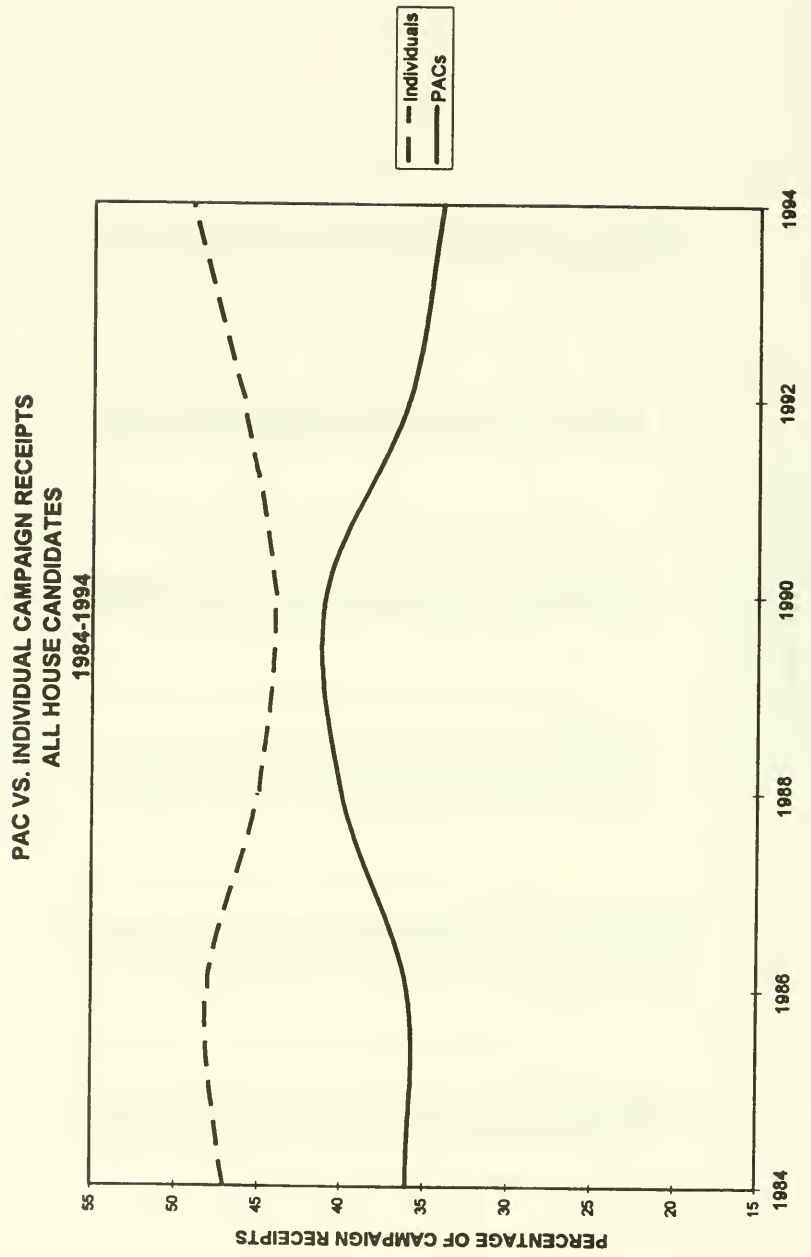
PAC VS. INDIVIDUAL CAMPAIGN RECEIPTS
ALL HOUSE CANDIDATES
1984-1994
PERCENTAGE OF CAMPAIGN RECEIPTS
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Individuals
PACs

The CHAIRMAN. PACs, as we heard earlier in testimony and I am sure we will hear today, have been around for a long time, oftentimes focused on one of the original political action Committees, the Committee on Political Education or COPE of the AFL–CIO. But it wasn't until the 1970s, with legislation, court decisions, and subsequent rulings by the Federal Election Commission that you got this enormous growth of the PACs.

Beginning in the early 1970s, with less than 1,000 PACs and peaking out at around 4,000 total PACs—there hasn't been a continuous growth of new PACs, they have been ebbing and flowing, but a continuation in number. The chart shows the dollar amounts contributed by the political action Committees.

It is interesting; if you take the number of PACs and the dollar amounts that are contributed and simply divide one into the other, which would give you the average dollars contributed per PAC, if you look at the 1974 period, the average amount is $57,000. These are figures not adjusted for inflation.

If you look at the 1994 number of PACs and dollar amounts contributed, it turns out to be $45,000. In 1974, the average PAC gave $57,000, not adjusted for inflation. In 1994, the average PAC contributed about $45,000.

Most of the focus has been on what happens in terms of elections, and the impact of PACs in electing people to office. At the same time you had the growth of the PAC era, you had legislation passed which redefined political parties.

While PACs have gone from 600 to over 4,000, during the same period you had two major political parties, the Republican Party and the Democratic Party. The 1970s legislation limited, with minor inflationary adjustments, the amount that the two parties and other minor parties could contribute to the political process. A multiplication of the number of PACs, was in essence natural response to a political limitation on the number of political petitions.

At the same time in the 1970s, the legislation capped the amount of money that individuals could contribute, $1000 in the 1970s, $1000 today. Today's $1,000 is roughly equivalent to about $325.

But when you listen to the debate over PACs—and I am going to let the witnesses talk about what they like or dislike about PACs, that is the purpose of the hearing—it basically runs the gamut from a position that PACs as a concept will destroy American democracy as we know it, to a position that PACs are the very epitome of the American democratic process. I think it has to do with the perspective from which you view power. If politics is who gets what, when and how, then an important consideration is where are you relative to others?

When you talk about campaigns and you look at PACs, the immediate association is with incumbents. Indeed, as the Speaker said, it has been a slightly different world since Republicans have become a Majority. PACs in fact are interested in the decision-making process, not so much in who makes those decisions. So naturally, since incumbents are already in office, the argument is that the PAC dollars flow to incumbents.

A better way of looking at that chart, because when you look at it initially you see bars, but when you do it in a line graph, I think it becomes far more interesting. The solid line is a representation

of the bar graph over the same period of the amount of money contributed by PACs to incumbents. The broken line is the amount of money contributed to incumbents by individuals.

For those who might argue that we are in an era of ever-increasing control going to the PACs, if in fact contributions of money are defined as power, then I think you have seen a period in which PACs perhaps had the upper hand. But obviously the flow of money it is changing, and this is to incumbents.

When you examine it in the larger context of all candidates, both incumbents and nonincumbents, you get a chart which looks like that chart. Once again, when you see bar charts like that you react to the numbers and you say okay. But when you turn it into a line graph, I think it does give you a better perspective on the political process. This chart represents all contributions to candidates, incumbents and nonincumbents.

The solid line represents political action Committees. The broken line represents individuals. Indeed, there was a period where you saw PACs moving in the direction of being the primary contributors to the political process. That is a historical period and the trend lines, if you carry the amount, will continue to move us away from that historical period.

Notwithstanding the ebb and flow of political dollars, and notwithstanding the absolute limit both legislatively and politically on the number of political parties—and the reason is of course it is a mutually exclusive game with political parties, you either belong to the Democratic Party or you belong to the Republican Party—you can't belong to both—and as you multiply parties in our system, there is a natural structure which compresses them back to the two major parties.

If you look at the history of political parties in our country, it hasn't always been the same two, but for a long time and for reasons perhaps we will examine in later hearings focusing on political parties, there are trends and structures in the system which I think will basically define the two political parties for a long time.

During that same period the amount that individuals can contribute has been capped. The growth of PACs has been primarily over the multiplication of the number of PACs and that clearly we have seen the beginning of the tip; that is, probably as many PACs as probably are going to be formed are formed.

And with that as simply a factual background of the recent period known as the rise of PACs and the dollar amounts associated with PACs, I yield to my friend and colleague, the gentleman from California.

Mr. FAZIO. First of all, Mr. Chairman, I want to tell you how much I enjoy Professor Thomas' tutorials. They are enlightening and I think legitimately break through a lot of the rather simplistic nostrums that float around as relates to what is wrong with this system and how we might fix it.

I would want to underscore the point that individual money, however it may be perceived to be free of special interest bias, in my experience, is far from that. That doesn't mean that there aren't a lot of people who give simply out of party loyalty or ideological commitment, but as you go up the scale of dollars in $25 to $250 to $2,000 per primary in general per family, you find in-

creasing interests that co-lie more with PAC giving than with civil virtue and support for political campaigns.

So I hope as we enter into the fray of campaign reform, we are willing to for a moment abandon some of our firmest positions and try to understand the environment we are truly in.

As was said at the first set of hearings, there are problems with the political system, not just the campaign finance system. While I think we agree there are problems, the degree to which we share commonality of solution has eluded Congress, and I think general opinion.

So I would thank the Chairman once again for convening these hearings. I think today we move not only to hear the diversity of views from our colleagues but we move on to hear from people active in the political environment both professionally and in terms of their citizen participation, and it will help us to understand the complexity of the problem and some of the pluses and minuses of various solutions that have been offered, and I truly believe that if we are honest and thorough in who presents information to this Committee, it will help us come up with something that might be conducive to bipartisan, at least broad political acceptance.

I thank the Chairman.

The CHAIRMAN. I thank the gentleman.

The first panel today is, and I don't mean this in any derogatory way, represents in part of a spillover from the first hearing because it was a hearing from Members of Congress having gone through the process and their view on the way in which the process might be modified. It is also useful for us to start today's hearing off with what I think is a relatively representative smorgasbord of approaches to the questions of PACs.

So if you will allow me, gentlemen, we will begin on my right, your left, with the gentlewoman from New York, Mrs. Maloney.

STATEMENT OF HON. CAROLYN MALONEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mrs. MALONEY. Thank you very much, Mr. Chairman, for calling this hearing.

I would like to thank my good friend, Mr. Fazio.

First of all, I am not new to the issue of campaign finance reform. As a Member of the New York City Council, I authored the campaign finance law which was called by the New York Public Interest Group, "The finest in the Nation."

In my freshman year in the 103d Congress, I served as Cochair of the Freshman Task Force on Campaign Finance, on Congressman Gephardt's Task Force on Campaign Finance, which offered and passed H.R. 3. And I am working with Congressman Fazio on a Democratic Task Force for Campaign Finance Reform.

First, I would like to address the idea of establishing an independent commission to write campaign finance reform legislation. I support this idea, and in fact introduced a bill March 1, 1995, calling for an independent commission.

You have before you a packet of material that includes a letter from the President endorsing the concept and mentioning my bill. This bill was patterned after the Base Closing Commission bill, a problem similar to campaign finance.

We all agreed that something had to be done but we couldn't agree on how to do it. If Congressman Armey never does another thing, he contributed a great deal toward solving a problem in this Nation by putting forward the commission idea. It has outlined the specifics, and it would come back to the House for an up or down vote and we would have a vote and move forward hopefully on campaign finance.

I differ with the Speaker's suggestion that it needs a two-thirds majority. I think it should have a simple majority, like Congressman Armey's bill.

One of the problems with campaign finance is that it will make it more difficult for incumbents to be reelected; therefore it is very difficult to have incumbents vote on a bill and put forth a measure.

It appears there is not a great deal of support for a commission idea. Several other bills have been put forward—the Smith-Meehan-Shays bill is a very thoughtful proposal and Congressman Farr has put forward what was the Gejdenson bill, which has a great deal of support and has passed this body before.

I am working on my own proposal and would like to testify about certain ideas in my proposal that differ from other legislation that is being considered.

First of all, since what we want to do is limit the influence of special interests and money in the political process, I propose that we confront *Buckley* v. *Valeo* head on and put forward a bill that has a spending limit of $600,000 per election cycle and let the courts decide. If they decide that it is unconstitutional to have a spending limit, then fall back to a voluntary spending limit. But that decision is two decades old and things have changed dramatically.

Many constitutional scholars believe that a spending limit would win if we were to get to the Supreme Court with one. In the *Buckley* v. *Valeo* decision, the Court said that all meaningful political communication must be paid for. It did not take into account free media or the tremendous influence of independent expenditures that in many cases decide elections.

The court said that independent expenditures don't work if they are not connected to campaigns. We all know that that is not true. There are many examples, such as the Willy Horton example and many others that, in some cases, the independent expenditures have decided elections. So I think that it is time that if what we want to do is to influence the amount of money in the political process, let's confront *Buckley* v. *Valeo*, let's go to the Supreme Court; as Speaker Steingetz from the New York State Assembly used to say, "Decide what you think is right and then let the courts decide."

We are addressing PACs today. I would like to talk about that. I have my own proposal of how the PACs should be reformed. Some say that PACs are the bad guys. I say that money is. Money is money, whether from a PAC or from an individual.

For example, my own campaign I raised a million dollars, my opponent raised a million dollars. I accepted PAC contributions. My opponent did not. My opponent severely criticized me for accepting PAC contributions from unions. Yet he would accept a check from executives in the same entity.

So I ask you, why is an executive's check more meaningful than a number of union workers who come together, pool their resources and make a contribution.

Another graphic example is law firms. He attacked me for taking a contribution from a PAC in a law firm; yet from other law firms he would go to them and literally get $20,000 in individual contributions. So I suggest that we have a $500 limit per election for PACs. I am also proposing that we create a new type of PAC, a citizen Committee of small donors that would contribute $25 or less, and that this small donor or citizen Committee PAC could contribute up to $1,000 per election.

I also feel that you need to be able to lift the spending limit, the voluntary spending limit if your opponent does not opt in in order to level the playing field.

The CHAIRMAN. I must tell the gentlewoman, your time has expired. You can go ahead and wrap up. If we have an unlimited time for each Member, Vic and I are going to get old here.

Please go ahead but focus on the key points. Basically, I am telling the other Members that since you went first, you get the privilege.

Mrs. MALONEY. I also think that we should ban contributions from current lobbyists and limit contributions from individuals to 75 percent in your home State.

I would like to close with a statement from one of my constituents. This past weekend, I was at a meeting of business leaders in my district and one executive questioned whether campaign finance reform was really a serious concern of the American people. He insisted that reducing taxes was far more important to this particular group of people. But the way campaigns are financed has a lot to do with reducing taxes.

The American taxpayer will have to cough up half a trillion dollars for the S&L bailout. The S&L crisis was caused by reckless deregulation of the S&L's adopted by many Members of Congress whose campaigns were financed by S&Ls.

Now, the American taxpayer is picking up the whopping tab. Last fall, the voters issued a mandate for change, a mandate for us in Congress to do more and protect our chances for reelection.

Mr. Chairman, I hope that they did not vote in vain and that you will move forward with a bipartisan campaign finance reform.

The CHAIRMAN. Thank you.

[The statement of Mrs. Maloney follows:]

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STATEMENT OF REP. CAROLYN B. MALONEY
COMMITTEE ON HOUSE OVERSIGHT
NOVEMBER 16, 1995

Let me first commend you Mr. Chairman, and my friend Mr. Fazio for convening this important hearing.

This hearing comes at an opportune moment. The public's respect of, and confidence in, the Congress is very low. The Federal government has shut down. Hundreds of thousands of Federal employees are sitting at home. Important government services are being denied to hundreds of millions of Americans. Based on your directive, Mr. Chairman, many of us have furloughed the caseworkers who cut through the red tape that plagues our constituents.

Mr. Chairman, you and I will probably disagree about who is to blame for this mess. But I think we can agree that Congress must take steps to build back the public's trust in its elected officials.

Passing tough campaign finance reform legislation is a perfect example of a step we can take to restore confidence in this institution.

I am not a recent convert to this issue. As a Member of the New York City Council, I authored a landmark campaign finance bill which has served as a model for successful initiatives around the country. In my first term, I chaired the Freshman Task Force on Campaign Finance and worked hard to pass H.R. 3. I am proud to be working with Mr. Fazio and others on the Democratic Task Force that is trying to bring forward various proposals for comprehensive campaign finance reform.

Let me first address the idea of establishing an independent commission to write campaign finance reform legislation. I support this idea. In fact, on March 1, three months before the famous handshake in New Hampshire, I introduced the Federal Election Law Reform Commission Act. Modeled on the base closure bill, HR 1100 would create a bi-partisan commission that would write a bill and present it to Congress on a fast-track procedure. In my view, if this approach were adopted, it would represent the best way to break the gridlock that has perennially blocked the passage of reform legislation.

In all likelihood, however, we will not take up a commission bill. Instead, there appears to be momentum behind the idea of a bill the details of which are written by us. You have already heard from the authors of a number of bills. I support much of what many of my colleagues are doing. In particular, I believe that the Smith-Meehan-Shays bill, which has captured the greatest amount of public attention, is a solid and thoughtful proposal, as is Congressman Farr's bill and several others.

I am working on my own bill, and would like to testify about certain ideas in my proposal that differ from the other legislation you are considering.

First, let me address a basic issue, the Supreme Court's decision in Buckley v. Valeo. This decision, of course, has governed our campaign funding laws for over two decades and is a major stumbling block to instituting reforms. I believe the time has come to confront Buckley head on. My proposal has a mandatory spending limit of $600,000 per election cycle and a mandatory limit of $30,000 on independent expenditures.

I believe that the time might be right for the Court to reconsider Buckley. This decision was handed down before spending limits ever took effect. Many of the Court's findings in the mid-1970's are no longer true. For example, the Court stated that "all meaningful political communication involves expenditure of money," which does not take into account the increase of free media. Similarly, many have argued that the incredibly time consuming money chase in which Members of Congress must engage actually deprives Americans of their constitutionally guaranteed right of representation.

If these mandated limits are struck down, I would propose voluntary spending limits. But in either case, there are a number of policy changes I would suggest which are different than some of your previous witnesses:

PACs have become the unrefuted "bad guy" of the electoral system. This criticism is not without justification. Today, House incumbents typically receive greater than a third of their contributions from PACs, most of which come from Washington DC-based business PACs with very few members. These PACs, of course, often have very narrow special legislative interests before Congress. Vicious cycles of PAC contributions and voting patterns threaten to give the special interests much more clout than the people's interests.

But PACs are not inherently evil. We must remember that they originally represented an innovative campaign finance reform by counterbalancing large individual contributions. PACs also embody the constitutionally protected freedom of association. PACs must not be banned. But they should be reformed.

I propose a maximum PAC contribution of $500 per election, a ten-fold reduction from current law. I further propose that this be balanced with a $500 maximum individual contribution. In order to facilitate greater involvement of ordinary citizens in the political process, I also propose the establishment of low-dollar PACs, called Citizens Committees. These Committees would receive small contributions (perhaps $25) from their members, but would be allowed to contribute $1,000 per election to Federal candidates.

To further even out the playing field between contribution sources, I propose that a candidate could receive no more than a third of his or her funding from traditional PACs, a third from Citizen Committees, and a third from large individual contributions (over $200).

In addition, we should reform the way in which wealthy PACs -- called connected PACs -- do business. Under current law, corporations and labor unions may underwrite the cost of starting and operating their PACs, including the costs of solicitations. Not surprisingly, contributions from connected PACs today outnumber those from nonconnected PACs by more than 10 to 1. A wealthy corporation, for example, can spend $500,000 of its own money raising $100,000 for the PAC, all without overhead costs to the PAC. By contrast, a non-connected ideological PAC must pay its administrative costs out of the same pot as its contribution fund.

In order to level the playing field among PACs, I propose to eliminate the ability for organizations to pay for the administrative expenses of their PACs and to limit the subsidies of fundraising to 20 percent of a PAC's fundraising expenses.

In sum, I do not think that banning PACs is fair or wise. If the executives of a corporation can each give several hundred dollars to a candidate, I believe that the unionized workers of that same company should be able to pool their smaller resources into a PAC contribution. But I believe that the reforms outlined in my proposal will foster greater participation in the process by individuals of modest means and reorient our campaign system away from the wealthiest interests.

To prevent millionaires from dominating our political process, my proposal would condition the benefits that a candidate would receive under either a voluntary or mandatory spending scheme on a candidate's spending no more than $30,000 of personal funds. Under the voluntary limit proposal, candidates who opt out of the system would pay a hefty fine for funds spent over the limit, and their opponents would have their spending cap lifted.

As I mentioned earlier, I believe the time has come to enstate a mandatory limit on independent expenditures. The vast sums of money spent on these disbursements has a corrosive effect on the quality of debate. However, if such a cap does not pass constitutional muster, I propose a system whereby the targets of independent expenditures could receive immediate air time to respond at the lowest broadcast rate. Furthermore, I propose that funds be provided to the targeted candidate for these responses. These funds could be generated from a combination of tax checkoffs, PAC registration fees, and fees charged to noncomplying candidates who overspend the limit.

Finally, there are a number of smaller recommendations that I would like to bring to your attention. I propose that 75% of a candidate's individual contributions come from the home state. I also believe that lobbyists should not be allowed to contribute to Members who they have lobbied within the past year. I also think the time has come to put a stop to the practice of contributions from minors.

Mr. Chairman, I've attached a more comprehensive outline of my proposed bill. I appreciate your concern about this important issue, and I thank you for allowing me to testify this morning.

END

SUMMARY
FEDERAL ELECTION REFORM ACT (FERA)
CONGRESSWOMAN CAROLYN B. MALONEY

Spending Limit

$600,000 per cycle **mandatory**.

Spending Limit -- Fallback Position

If a spending limit is deemed unconstitutional, a voluntary limit of $600,000 per cycle would go into effect. Under this system, a candidate who opts in would receive a benefits package of reduced broadcast rates and reduced postage rates. This benefits package is also contingent on a candidate spending no more than 5% of the limit ($30,000) of their own money, either by direct spending or through loans.

Contested Primary

Under either the mandatory or voluntary system, candidates with a contested primary (won by 15% or less) would be able to spend an additional $200,000 over the $600,000 limit on their general election.

PACS

- Per election limit goes from $5,000 current law to $500.

- Creation of a new entity -- Citizen Committees (CCs) -- which are PACS made up of contributions at or under $25. Contributions from CCs would be limited to $1,000 per election (double the limit of traditional PACs).

Limit on PAC Fundraising Overhead

Only 20% of the fundraising expenses of connected PACs could come from the organization (corporation, union, etc) to which the PAC is connected. Under current law, the connected organization can underwrite all fundraising expenses. In addition, current law which allows the underlying organizations to underwrite administrative functions of connected PACs would be eliminated.

Individual Limits

Per election limit goes from $1,000 current law to $500 (same limit as traditional PACS)

Aggregate Limits

1/3 from large individual donors ($200 or over)
1/3 from PACs
1/3 from CCs

Millionaire Protection

Since the spending limit is mandatory, it would be against the law to spend more than $600,000. However, in order to qualify for the benefits (reduced broadcast and

postage), candidates could not spend more than 5% ($30,000) of their own money (either loans or direct contribution).

Millionaire Protection -- Voluntary System

If voluntary limits are ultimately enacted, there would be four types of "millionaire protection." The first is the same as above: to qualify for benefits, a candidate couldn't put in more than $30,000 of their own funds. The second would remove the total spending limit of $600,000 as soon as a non-complying candidate spends $300,000 (and any money raised over $600,000 does not have to be done according to the 1/3-1/3-1/3 aggregate cap limits). Third, the 75% in-State requirement for individual contributions would be lifted. Finally, any spending by non-complying candidates over $600,000 would be taxed at 35%.

Benefits

Reduced Broadcast and postal rates for all candidates under the mandatory system, and for participating candidates under the voluntary system. Benefits contingent on maximum of 5% in spending of candidate's funds, as outlined above. The benefits would be paid for by eliminating mass mailings of newsletters in election years.

Ban on Contributions from Lobbyists

Registered lobbyists who have lobbied Members or staff within the previous year could not give campaign contributions to that Member. Registered lobbyists who give to Members could not lobby that Member or staff for a year.

Home State

75% of a candidate's contributions from individuals must come from the home state. This provision would be eliminated if a voluntary system is enacted and a non-complying opponent raises $300,000 or more.

Bundling

Bundling is banned. There would be an exemption for grassroots networks that are unconnected to lobbying operations.

Independent Expenditures

A new definition of Independent Expenditures: A communication containing "express advocacy," i.e. an expenditure that, taken as a whole would suggest action to support or oppose a candidate. This expenditure would not be coordinated with a candidate or agent of a candidate.

Any independent expenditure made in coordination with the candidate would be prohibited.

New limit of $30,000 on independent expenditures.

For broadcast independent expenditures, the opponent would be allowed immediate minute for minute air time response at the lowest broadcast rate, with no advance payment required.

Independent Expenditures -- Fallback Position

If limit on independent expenditures is ruled unconstitutional, targeted candidates who have opted into the system would receive subsidies in order to compete with independent expenditures in excess of $10,000 from a single candidate. These funds would be generated by a combination of tax check off and PAC registration fee. An overall voluntary system, the 35% tax on spending over the limit would be used for this fund as well.

Soft Money

In general, national party soft money would be turned into "hard money," subject to Federal election limits.

State party soft money used in election years benefitting Federal candidates would also be subjected to Federal election limits.

Contributions from Minors

You must be of voting age to contribute.

The CHAIRMAN. We will go through the panel without asking questions so that we could get a general response. I know that your time is precious, but it would be helpful if we could do that.

My friend and colleague from the Ways and Means Committee the gentleman from Georgia, Mr. Lewis.

STATEMENT OF HON. JOHN LEWIS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF GEORGIA

Mr. LEWIS. Thank you for the opportunity to come before you today.

The challenge and task that you are undertaking is formidable. Changing the way campaigns are financed is a difficult job, particularly because it is something that will dramatically impact all of our lives. But clearly something must be done. Too much time is spent raising money and the current system is one is that has been criticized about the way our democracy works.

I commend you for holding these hearing and hope you can arrive at a formula which is fair, nonpartisan and nondiscriminatory and restores the American peoples faith in our democracy.

In 1986, when I first decided to leave the Atlantic City Council and seek the open seat in Georgia's Fifth Congressional District, I was a grass-roots candidate. My background within the civil rights movement and my energies on the city council had been devoted to issues relating to low-income housing, neighborhood preservation and homelessness. I didn't have a lot of supporters who were able to write my campaign checks for $1,000.

Faced with formidable opposition in the race, it was only with the support a Labor Union Political Action Committees and a few others, that I was able to mount a credible and ultimately successful bid for the Congress.

If not for the support of these special interests, this former civil rights worker, this fourth son of a sharecropper, would not have had a prayer to make it to the United States House of Representatives. Thus, I was surprised and dismayed in recent years to see political action Committees under attack from so many different quarters, including many of my friends in the public interest communities.

Political action Committees, especially those that are labor unions and ideological groups by those supporting or opposing abortion rights, gay rights or gun control, they give working people and people with little means the ability to participate in the political process. Many of these people who contribute with a "checkoff" or small deduction from their paycheck each week would effectively be denied participation in the process if not for their union or company PAC.

Let there be no confusion, minority, women candidates from poor rural and urban districts are the beneficiary of political action Committees. PACs take power and influence out of the hands of the "country club set" and put it in the hands of the people who cannot afford to write $500 or $1,000 checks.

This is one of the reasons PACs were established and this is an exactly why PACs should be protected in any campaign reform legislation. To do otherwise is to revert to a system controlled by

wealthy individuals and millionaire candidates who bankroll their own campaign.

I know there are those who believe that this was a position taken by Democrats at the time they controlled the House, who were the beneficiary of a majority of PACs. Let me assure my colleagues that even in light of my party's new Minority status in this House, even in light of the fact that a majority of PAC funds are now flowing into Republican coffers, I am still supportive of political action Committees and their right to participate in the political process.

I know there are various proposals before this Committee not to reduce or lower PACs contribution but eliminate them altogether. Such a move should be resisted. Federal election law today permits candidates to accept a contribution of $5,000 in their primary and $5,000 in the general election. A reduction in the contribution limit will have a minimal impact on the contributions. It would have a disproportionate impact on minority candidates.

I believe that it has been noted before this Committee that the individual limit of $1,000 per person, per election adopted in 1974 is worth only about $325 today when adjusted for inflation. Similarly, the $5,000 per election limit when adjusted, is worth about $1,625. Inflation with no adjustment to compensate for it have had the effect of lowering individual and political action Committee contribution limits year after year.

In 1994, a Common Cause study showed that lowering the PAC contribution limits will cost candidates in competitive races 3 percent of their PAC's contribution. Using the same numbers show that a reduction in the limit will cause Members of the Congressional Black Caucus more than twice that amount. Minority candidates have worked too hard and too long to gain equal footing in the political system.

CBC and other minority candidates should not be discriminated against in any campaign finance formula. Indeed, Mr. Chairman traditionally one of the goals of reform has been to open the political process not to throw up roadblocks to minority participation.

I believe that Congress should pass a strong campaign finance reform bill this year. But it cannot be considered true reform if it narrows the scope of who can participate and who can contribute in our political system.

Minority and women have waited too long to have a voice in the Congress. We can not impede their gains by jeopardizing their future. To ensure that this is a fair process for all, this Committee should not lower the PAC limit by eliminating PACs.

Mr. Chairman, PACs are people, too. Let's not pick on PACs.

Thank you very much, Mr. Chairman and Mr. Fazio.

The CHAIRMAN. Thank you very much, Mr. Lewis.

[The statement of Mr. Lewis follows:]

CAMPAIGN FINANCE REFORM SHOULDN'T DISCRIMINATE

Testimony by Hon. John Lewis
Committee on House Oversight
November 16, 1995

Thank you Mr. Chairman and my colleagues for the opportunity to come before you today. The challenge and task that you are undertaking is formidable. Changing the way congressional campaigns are financed is a difficult job, particularly because it is something that will dramatically impact all of our lives. But, clearly, something must be done. Too much time is spent raising money and the current system is one that has fueled public cynicism about the way our democracy works. I commend you for holding these hearings and am hopeful that you can arrive at a formula which is fair, non-partisan, non-discriminatory and restores the American people's faith in our democracy.

In 1986 when I first decided to leave the Atlanta city council and seek the open seat in Georgia's 5th congressional district, I was a grass-roots candidate. My background had been in the civil rights movement and my energies on the city council had been devoted to issues relating to low-income housing, neighborhood preservation and homelessness. I didn't have a lot of supporters who were able to write my campaign checks for $1,000. Faced with formidable opposition in the race, it was only with the support of Labor Union Political Action Committees (PACs) and a few others that I was able to mount a credible and ultimately successful bid for the Congress. If not for the support of these "special interests", this former civil rights worker, this poor son of a sharecropper would not have had a prayer to make it to the U.S. House of Representatives. Thus, I have been surprised and dismayed in recent years to see PACs come under such vitriolic attack from so many different quarters, including many of my friends in the public interest community.

Political Action Committees, especially those of Labor Unions and ideological groups like those supporting or opposing abortion rights, gays rights or gun control, give working people and people with little means the ability to participate in the political process. Many of these people who contribute through a "checkoff" or small deduction from their paycheck each week would effectively be denied participation in the process if not for their union or company PAC.

Let there be no confusion -- minorities, women, candidates from poor rural and urban districts are the beneficiaries of PACs. PACs take power and influence out of the hands of the "country club set" and put it in the hands of the people who can't afford to write $500 or $1,000 checks. This is one of the reasons PACs were established and this is exactly why PACs should be protected in any campaign finance legislation. To do otherwise is to revert to a system controlled by wealthy individuals and the millionaire candidates who bankroll their own campaigns.

I know there were those who believed that this was a position taken by Democrats at a time when they controlled the House and were the beneficiaries

of the majority of PAC contributions. Let me assure my colleagues that even in light of my party's new minority status in this House, even in light of the fact that a majority of PAC funds are now flowing into Republican coffers, I am still supportive of PACs and their right to participate in our political process.

I know there are various proposals before this committee now to reduce or lower PAC contributions or eliminate them altogether. Such a move should be resisted. Federal Election Law today permits candidates to accept contributions of $5,000 in the primary and $5,000 in the general election. A reduction in the contribution limit would have a minimal impact on overall contributions and would have a disproportionate impact on minority candidates.

I believe it has been noted before this committee that the individual limit of $1,000 per person per election adopted in 1974 is worth only $325 today when adjusted for inflation. Similarly, the $5,000 per election limit, when adjusted, is worth just $1625. Inflation with no adjustments to compensate for it have had the effect of lowering the individual and PAC contribution limits year after year.

A 1994 Common Cause study showed that lowering the PAC contribution limits would cost candidates in competitive races 3% of their PAC contributions. Calculations using the same numbers show that a reduction in the limit would cost members of the Congressional Black Caucus (CBC) more than twice that amount. Minority candidates have worked too hard and too long to gain equal footing in the political system. CBC and other minority candidates should not be discriminated against in any campaign finance formula. Indeed, traditionally one of the goals of reform has been to open the political process, not to throw up roadblocks to minority participation.

I believe that Congress should pass a strong campaign finance reform bill this year. But it cannot be considered true reform if it narrows the scope of who can participate and who can contribute in our political system. Minorities and women have waited far too long to have a voice in Congress. We cannot impede their gains by jeopardizing their future. To ensure that this is a fair process for all, we should not, this committee should not, lower the PAC limits.

Thank you, Mr. Chairman.

STATEMENT OF HON. LUIS GUTIERREZ, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

The CHAIRMAN. Mr. Gutierrez.

Mr. GUTIERREZ. Thank you very much, Mr. Thomas, and Ranking Member, Mr. Fazio. Thank you very much for inviting me to share my ideas with you.

Mr. Chairman, these are important hearings and your decision to open up your Committee room to those of us interested in this matter takes us a major step toward the day when the public feels confident that all the rooms of Congress are open to all Americans who have an issue to bring before their Representatives.

Let's face it; at this point, whether it is based on perception or reality or a combination of both, many Americans believe that access to their elected officials is often determined by relationships cultivated during campaign season, particularly during the fundraising phase of a campaign.

Why is that the case? Because of the flawed campaign finance system that places too high a premium on raising and spending excessive funds. I hope that I can offer one possible solution today.

I have drafted a bill and it is available in discussion form for anyone who wishes to see the legislative language that would decrease candidates dependence on raising huge sums of money while enhancing the ability of all Americans to participate in all elements of the political process.

How do we reach that goal? For starters, I recommend that we make better use of a mechanism that many people seem intent on discarding altogether, the Political Action Committee. I know it is popular to bash PACs, and I agree that they often hold too much sway over candidates. However, before we throw them out, let's think about whether PACs in a reformed version can be used to cure some of the rest of the system. I believe they can and let me explain.

My bill would establish something I like to call the "PACs Tax," a pool of money we create by penalizing or taxing certain entities like PACs, wealthy candidates, bundlers, leadership Committees when they spend at excessive levels. My proposal sets up a voluntary limit of $1,000 in contributions per candidate from a single PAC during an election.

Keep in mind, this does not replace or revoke the current hard ceiling of $5,000 that a PAC can give to a single candidate. That would remain intact. However, under my plan if a PAC chooses to give more than $1,000 to a candidate a PACs tax is then imposed. The resulting money would then be collected in a pool which I like to call the "Electoral Equity Fund," that would administered by the Federal Election Commission.

Next the money would then be available to candidates who agree to spend less than $600,000. He or she would be eligible to get up to one-third of his or her money from the PACs tax pool. To encourage low dollar contributions, the candidate would only receive a reimbursement equal to the amount that was raised in individual contributions of $200 or less.

Despite the name, PACs tax, I would hope we could use it to target our sources whose influence should be decreased, on leadership PACs, on bundlers, on wealthy candidates who spend sizable per-

sonal fortunes to win a House seat. They would be under my proposal, allowed to spend $50,000 of their own money before the penalty kicks in. Any campaign that spends $1 million would also be penalized. The rates of the penalty would be 39.6 percent. That is the highest rate of corporate taxation. Any money raised or spent above the suggested limits would be subject to the tax.

For example, let's say a PACs maxes out; that is gives $5,000 to a single candidate. In that case, the PAC would owe a penalty of about $1,584, in other words, 39.6 percent of the $4,000 on that contribution. Or let's say a campaign spends $1.1 million. The campaign would face a $39,600 tax.

Mr. Chairman, let me air some of the concerns that you and others may raise. First, I am willing to concede that our bill contains a big loophole. And to be honest, I am kind of proud of this loophole. I think it is a good sign.

The loophole is this: It is possible, it is easy for a PAC, a campaign or a wealthy candidate to avoid paying any penalty or tax. All they have to do is lower spending voluntarily. Either way, I believe we have accomplished our goal. Either PAC directors decide to limit their contributions in order to avoid the tax or we will be able to level the playing field thanks to the money that is generated by penalizing the excessive spending. I think it is a win-win situation.

Let me also point out that I recognize that this bill presents some relevant legal questions; namely is it constitutional to impose a penalty on political contributions? I would prefer to leave this issue to legal scholars.

However, I would at least argue if this constitutional question is applicable to my bill, then it should certainly be raised in connection with those proposals to seek to ban PACs altogether.

I would also argue that my bill is in keeping with the body of legal precedence surrounding this issue because I see my bill as creating incentives to abide by the limits rather than simply creating penalties for those who break them. The candidate has the incentive to spend less to accept lower dollar contributions.

Clearly, there is a real hunger in America for political reform and I think that this is a proposal that might just achieve that. It means that we must do more than simply keep what works or throw away what doesn't. It requires us to take the best elements of the current system, revise them, reform them in a way that helps us reach our goal of creating a political system that creates greater contact between all candidates and constituents. I think my proposal has some merits and would love to discuss it with you and others.

Thank you.

[The statement of Mr. Gutierrez follows:]

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Prepared Testimony of
Rep. Luis V. Gutierrez
before the Committee on House Oversight
November 16, 1995

Chairman Thomas, I want to thank you and Ranking Member Fazio for scheduling today's hearing and for giving me the opportunity to offer some of my ideas on this matter.

Your commitment to addressing the issue of campaign finance reform is deeply commendable and constructive. I believe that your decision to open up your hearing room to those of us interested in this matter represents a major step in an effort to help us reach the point where the public can feel confident that all rooms of Congress are open to all Americans who have an issue to bring before their representatives.

At this point-- whether it is based on perception, on reality, or on a combination of both-- people are unable feel such a level of confidence. People firmly believe that access to their elected officials is often the result of relationships cultivated during campaign season, particularly during the all too important-- and too lengthy-- fundraising stage of a campaign. In short, the public often feels that they are regarded by politicians as potential campaign contributors rather than as concerned constituents.

The fault in this scenario lies not with the people on either side of the system, nor with people belonging to any specific political party. I know members of this body, just as I know people throughout the field of politics. And I know that the majority of them-- just like the majority of the people whom they represent-- are decent individuals who are sincerely dedicated to discussing, debating, and resolving the major issues of the day.

The fault, instead, lies with a campaign finance system that places an unfortunately high premium on raising and spending excessive funds just so an individual with an interest in public service can become a viable candidate for office.

That is why I seek real and lasting campaign finance reform that achieves two results: decreasing candidates' dependence on raising huge sums of money, and enhancing the ability of all Americans to participate in every facet of the political process.

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That is the spirit of the proposal that I would like to present to you today.

The goal of my bill-- which is available in discussion draft format for anyone who wishes to see its legislative language-- is to correct the main flaw that plagues the current system: namely, too much power concentrated in the hands of too few special interests and big-money donors. And the mechanism that I would suggest we employ to achieve this type of change is the very item that so many seem intent on discarding altogether: the political action committee (PAC). I believe that by retaining yet revising PACs, we can use them as a vehicle to restructure the rest of the system.

Before I tell you how I think the rules concerning PACs can be altered to fit our goals, let me start by saying that I think there is something to be said for PACs as they exist today.

For instance, I believe that PACs have encouraged participation in the political process for many Americans. PACs have allowed individuals who share a common interest-- but who, perhaps, have limited personal funds-- to pool their resources to support the candidate of their choice.

Just as importantly, let's consider what the absence of PACs would mean. I believe that the abolition of PACs, a scenario that some have advocated-- and in fact, as some may advocate at today's hearing-- would drastically impede the public's knowledge about candidates for office. If our campaign finance system only allowed for personal contributions, the public would have a very limited means of identifying which interests were supporting a given candidate.

The crux of my bill is the establishment of a "PACs Tax"-- a pool of money that we create by penalizing, or "taxing", certain entities (including PACs, wealthy candidates, bundlers, and leadership committees) whose campaign spending is, I believe, harmful to the political system when it is done to excess.

This proposal sets a voluntary "limit" of $1,000 in contributions per candidate from a single PAC. This does not replace in any way the current hard ceiling of $5,000 that a PAC can give to a single candidate. However, under my plan, if a PAC chooses to give more than $1,000 to a candidate, a penalty (the "PACs Tax") is imposed.

The resulting money would then be collected in a pool, the Electoral Equity Fund, to be administered by the Federal Election Commission. Such funds would then be distributed to campaigns that abide by an overall campaign spending limit of $600,000.

A candidate who agrees to stay within the limit would be allowed to get up to one-third of his/her money from the "PACs Tax" pool. To encourage low-dollar contributions, the candidate could only receive a reimbursement equal to the amount that was raised in individual contributions of $200 or less.

As mentioned above, the "PACs Tax", as I envision it, should not be limited to PACs. This mechanism could also target other sources whose influence should be decreased. For instance, we would similarly place a "tax" on leadership PACs; on bundlers; and on wealthy candidates who spend sizable personal funds (they would be allowed to spend $50,000 of their money before a penalty kicks in). Campaigns that spend more than one million dollars would also be affected.

The rate of the penalty would be 39.6%-- on par with the highest rate of corporate taxation. Any money raised or spent above the suggested "limits" would be subject to the tax.

For example, if a PAC gives $5,000 to a single candidate, the PAC would owe a penalty of $1,584 (39.6% of $4,000) on that contribution. If a campaign spent $1.1 million, it would face a tax of $39,600.

Mr. Chairman, let me anticipate some of the concerns that you and others may raise.

First of all, I am willing to concede that *our bill contains a big loophole*-- in fact, I believe that this fact actually strengthens my case. The loophole is this: it is possible, and somewhat easy, for a PAC, a campaign, or a wealthy candidate to avoid paying the tax or penalty.

However, in order to do so, the entity must lower its spending voluntarily. Either way, we have accomplished our goal. Either PAC directors decide to limit their contributions or expenditures in order to avoid the tax, or we are able to "level the playing field" thanks to the money that we get by penalizing their excessive spending.

Let me also point out that I recognize that this bill presents some relevant legal questions. Chief among them is this: is it constitutional to impose a penalty on political contributions that are often considered to have first amendment protection? I would prefer to leave that issue to legal scholars rather than offer my own interpretation. However, I would at least argue that if this constitutional question is applicable to my bill, than it should certainly be raised in connection with those proposals that seek to ban PACs altogether.

I am also hopeful that I could make the case that my bill is in keeping with the body of legal precedent surrounding this issue since our bill creates incentives to abide by the limits, rather than simply creating penalties for those who break them.

Again, I am aware of such concerns, and I assume that people on both sides of the aisle would raise many others. However, at this point, I sincerely appreciate the opportunity to add my ideas to this debate.

Chairman Thomas, I should also point out that the final section of the bill addresses another element of reform that I think bears directly on the issue of campaigning by incumbents. It calls for the prohibition of mass mailings prior to elections-- an issue on which I was very grateful to have your support and assistance during the debate on the Legislative Branch appropriations bill.

The current mood of the country-- as evidenced by a visible hunger for political reform-- represents a great opportunity for those of us in elected office who are committed to doing what we can to revise the political system so that it works for everyone, regardless of one's ability to contribute financially to a candidate or political party.

But, at the same time, this pro-reform spirit also serves as a challenge, a trial, for us. Members of Congress cannot be timid in this area. We have to make real change-- substantial and lasting change.

To do so, I think, demands creativity. It means that we must do more than simply keep what works or throw away what doesn't. I believe that it requires us to take the best elements of the current system and revise them-- reform them-- in a way that helps us reach our goal of creating a political system that creates greater contact between all candidates and all constituents.

I believe, and I hope that you will agree, that my proposal is at least consistent with that goal.

Thank you for your attention. I greatly look forward to working with members of the Committee throughout this process. At this point, I would welcome any questions that you may have.

# # #

The CHAIRMAN. I thank the gentleman.

We have a vote on on the Floor.

The Committee will stand in recess until 11 o'clock.

[Recess.]

The CHAIRMAN. The Committee will reconvene.

And now it is our pleasure to hear from a Member of the large freshman class about campaign finance reform, the gentleman from Washington, Mr. White.

STATEMENT OF HON. RICK WHITE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON

Mr. WHITE. Thank you very much, Mr. Chairman. And I thank the Ranking Member. You are very kind to allow me a little time to talk to you today, and I do have a written statement that I have submitted for the record. But what I would like to——

The CHAIRMAN. Let me say at this point, that if any of the other Members have written statements, without objection, they will be made a part of the record.

Mr. WHITE. I thank you very much, Mr. Chairman.

First of all, I would like to say, and this isn't in my written statement, but I am here with a great deal of humility this morning. I recognize this Committee, the Chairman in particular, has been at the forefront of efforts to reform the finance laws, to reform the franking laws, and many of the other problems we have in our political system that really need to be addressed.

Personally, I am new to politics. This is my first elected office. I had never run for office before running for this office in 1994. So I really do come before this Committee with some humility.

Having said that, I think being new I also bring a perspective that probably is useful in this procedure, and I would like to just spend a minute or two talking about my recent race. Because at least for me it shed some light on what is wrong with our current system.

As I mentioned, I had never run for office before, and I can remember the day very clearly, it was Thanksgiving Day, 1992, when I sat down with my dad after a nice Thanksgiving dinner, maybe we had had a little bit too much wine with our turkey, and told him that I was thinking about running for Congress. And as we went through the process and tried to figure out what we would have to do, we realized that we would probably have to raise about $500,000 to have a credible campaign. And we spent a lot of time trying to figure out how we would do that.

Ultimately decided, like most people, to do that, we would have to start with the people who knew me the best, my family and friends, and that is exactly what we did. I raised money from my dad, from my Aunt Wanda, from my Uncle Brooks, from the guy down the street at the grocery store, from everybody who knew me the best. And slowly but surely we accumulated a little bit of a campaign treasury. I also tried to raise some money from PACs. And I can say we tried as hard as we could to get their attention and didn't have much success. Ultimately in the campaign, we raised about $550,000 during the election cycle; $40,000 of that came from PACs. The rest was from individuals.

Now I was running against an incumbent, and by contrast, I raised about $550,000 overall, including $40,000 from PACs. My opponent raised about $500,000 from PACs alone. And we did a little analysis of the PAC contributions after the campaign, and we realized that my $40,000 came primarily from the PAC at my own law firm, my dad's company's PAC, the PAC of a friend of the family who had been the best man at my wedding, those sorts of connections.

With very few exceptions did any PAC that I didn't have a personal relationship with contribute to my campaign. By contrast, my opponent had maximum contributions at the $10,000 level from at least 15 labor organizations. That is $150,000 just right out of the box, and a number of major contributions from PACs all around the country for a total of about $500,000.

Now, the conclusion I drew from this, Mr. Chairman, and I recognize this is only one example, but the conclusion I drew, and I draw today, is that PACs are vastly skewed in favor of the incumbent. At least in my case that turned out to be true. And having said that, as I sat down to think about the campaign finance reform system, I really concluded that every part of the campaign finance system is essentially skewed in favor of the incumbent, and I have come to believe that everything this House has done in the past is like—has been skewed in favor of the incumbent, and just about everything we can expect this House reasonably to do in the future will probably be biased in favor of the incumbent.

It is really just asking a little bit too much, I think, of ourselves, to impose upon ourselves restrictions that are going to allow challengers a better chance of beating us. And so the conclusion I came up with was that the only way we are ever going to solve this problem and make sure the challengers have an equal chance is to come up with something like a commission that will look at the system in an unbiased way and propose something for an up or down vote.

So on Tuesday of this week, I introduced H.R. 2635, the Fair Elections Act, which would call for a commission similar to the Base Closure Commission. It is a 12-member commission, four Republicans, four Democrats, four independents. It has 90 days to come up with a plan. Congress has to vote on the plan within 30 days after it has been proposed.

It has only three goals, only three directions in my bill would be given to this Committee: Number one, come up with a system that allows for fair and meaningful elections; number two, try to eliminate the influence of special interest money on the outcome of elections; and, number three, try to design a system that doesn't give incumbents an unfair advantage. It is a straight from the shoulder, simple and fair approach to trying to come up with a campaign finance system that really works for both challengers and incumbents.

Mr. Chairman, I don't know what this commission would do with PACs. It might decide to expand their role; it might decide to limit their role. But I do know that about the only way we are going to end up with a fair campaign finance system is to let somebody other than Congress make the initial decision. And I hope this

Committee will take that into consideration as it moves through its work.

Once again, I congratulate the Chairman and this Committee. You are doing a great job, and I hope we come to a very successful conclusion.

Thank you for letting me testify.

The CHAIRMAN. Thank the gentleman very much.

[The statement of Mr. White follows:]

Testimony of Rep. Rick White, before the Committee on House Oversight
November 16, 1995

Mr. Chairman, thank you for the opportunity to testify before the Committee. I commend you and the Committee for addressing the role that Political Action Committees (PAC's) play in the financing of elections. Campaign finance reform is an issue that Congress must tackle soon.

On Tuesday, I introduced H.R. 2635, the Fair Elections Act. This bill creates a non-partisan commission which will have ninety days to recommend reforms to the laws that govern Congressional elections. The Commission's recommendations will be unamendable and placed on a legislative fast track.

I believe that the approach I have outlined in H.R. 2635 is the only way Congress can truly solve the problems that exist in our campaign finance system.

For too long, Congress has allowed partisan politics to influence campaign finance reform efforts. Any campaign finance proposal that has seen the light of day in recent years has essentially been an incumbent protection plan, including many of the proposals being examined by the Committee today. Congress has not been willing to level the proverbial playing field where incumbent members of Congress and challengers compete. Nor has Congress been able to move the campaign finance debate above partisan rhetoric and inject legitimate academic discourse and empirical findings into campaign finance reform proposals.

H.R. 2653 will finally allow Congress to correct the deficiencies of previous reform efforts. By establishing a twelve member commission in which no more than four members may be of the same political party, we will create an environment which is non-partisan. That is, we will establish an arena where the partisan gloves that have doomed past reform efforts are removed and legislation is produced which incorporates new ideas and solutions rather than recycling the stale rhetoric of recent years.

Many of the current reform proposals that deal with PAC's are exactly that -- recycled partisan rhetoric. They downplay what studies show to be actually wrong with the system, ignore the Constitution, and create a whole new set of problems. While I agree that PAC's may currently have a disproportionate influence over the process, many of the proposals that have received attention in this Congress are severely flawed.

First, the Supreme Court would most probably rule that an outright ban of PAC's is unconstitutional. Prohibiting individuals from pooling resources restricts their ability to exercise their rights of speech and association. As we move forward with campaign finance reform, it is imperative that we remain cognizant of what is protected under the

Constitution.

Second, eliminating PAC's without loosening restrictions elsewhere, will only compound what many perceive the problem to be -- that too much time is spent raising money. Candidates inevitably need money to get their message to the voters. Restricting the outlets that exist for candidates to raise funds will only mean that more -- not less -- time is spent recruiting donors.

Third, the Supreme Court has ruled that Congress may not limit independent expenditures. If PAC's are banned or their influence significantly diminished, we will see a dramatic increase in the number and amount spent on independent expenditures. As PAC's explore these and other options to continue participating in the process, candidates lose control over the content, the voters have no specific individual to hold accountable for disagreeable actions, and disclosure of who funds these activities will be less than if money is channeled directly to a candidate.

Probably the most simple and effective PAC reform would be to equalize the contribution limits of PAC's and individuals. That step would go a long way towards eliminating the disproportionate influence that PAC's have over the process and would do little harm to the system as a whole.

Before any campaign finance reforms are adopted -- PAC related or otherwise -- we must ensure that they do not inadvertently lessen the quality and amount of debate or further muddle the process by adding regulations which only perpetuate the advantage of incumbency. I am not convinced that Congress is capable of taking the campaign finance debate to a level that will allow us to do that.

Real reform is about making sure our federal campaign finance laws do not protect the incumbent. As a freshman, one of the lessons that I've learned is that Congress is the last body we should count on to do a fair, and quick, job of reforming our campaign finance laws. It has become clear to me that, unless Congress is forced to take an up or down vote on this issue, we are never going to get politics out of the process. No reform passed in this Congress will take effect until the 1998 election cycle. Therefore, rather than simply tinker around the edges, significant reform will only take place by forming a commission to revamp the entire system.

The CHAIRMAN. The next Member to testify before us in this area of difficult decision making comes from hopefully an optimistic location, Hope, Arkansas. The gentleman from Arkansas, Mr. Dickey.

STATEMENT OF HON. JAY DICKEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARKANSAS

Mr. DICKEY. Thank you, Mr. Chairman.

My experience is this. I have had two elections and I have not taken PAC money at all, and I think because of that I can speak about some things that other people can, in fact, only look at and not actually—and not feel.

What happens is that when a person doesn't take PACs, they identify more with the people who are on the lower end of the economy, the lower end of the income stream. And what those folks are saying is that we don't have any access to this system because you all are deciding all that according to how much money is given and who is giving it and the PACs are the ones that are leading the way.

I think we need to somehow remember that if we can eliminate PACs giving money, that we will bring those people into the system where they will feel more like there is a good reason to vote, more like giving $10 or $25 or even $5, as in some cases I received. And I think it is something we ought to seriously consider as we move through this. They think that the sole ticket to participation in politics is money. If we eliminated that, it would be awfully good.

The other thing that the people like who are on the lower end of this—on the scale of the economy is that candidates have to approach them, that they really need them, that they come and they do it through mailings as I do and through solicitations and even sometimes in advertisements in newspapers, that we are saying we want the little contribution.

Right now I am working on a project called Project 39, where we are asking for people to give no more or no less than $39. And it is the sort of thing that I believe is necessary in the whole scheme of things to keep our system strong, because we need those people and we need to let them know about it.

I thought that when I—when I fought the PACs like Rick did in my elections, I thought it was a philosophical conviction that was leading the people to, the PACs, to decide to support my opponent. I really did. I thought this is the sort of thing that we have a difference, and I was out pitching the theme about being a conservative and we have to save money and so forth.

And then all of a sudden, the first three months of this year it came and I saw this money coming, overflowing from the Democrats to the Republicans, and I got a cheap feeling. I got a feeling like it is really—it really is going to be true, those people down there at the lower end of the economy and the stream of income are going to say, yes, see, that is exactly what is happening. It is not a philosophical conviction, it is not someone who is saying through the PACs this is our expression of our opinion about how you are doing. It is power, it is control, and it is a majority rule in Congress. And again, as we look at it from the standpoint of that lowly person who is saying, I have a choice to just get out of this,

I don't have to register, I don't have to vote, I don't have to do anything, I can't afford to give to PACs, I am just going to opt out.

Now, I am saying if we continue like we are going, and we are watching these examples take place, then we can't deny it. We get to the point where we just actually can't deny it. I know this, that in my elections I have the freedom to say that there wasn't any PAC that I owed my election to.

I heard Representative Lewis say, I couldn't do it without it. I don't believe that is the case. Representative Lewis actually came into my district and campaigned against me. I know how forceful he is. You understand? And I am just saying, he could have done it by himself. But if he had of and he didn't owe it to the PACs and he said, I relied on the people, just think about the constructiveness of that experience. And I think he is—we are deprived of it because we don't do it.

PACs are needed. I want to say that for sure. We need the advocacy of PACs. We need people who are coming in who are squares, not well-rounded in information, but just squares, and say, look, we don't know about all these other issues but we know about this one and this is how this is unfair and this is how our position is needed. But we need for our influence to be influence information and not money. The influence of the PACs needs to be through information and through working hard, not through money.

You see, what we are doing by promoting the PACs and by promoting the lobbyists and so forth, we are asking them to hire people who are experts and skillful in manipulation. And what happens is they want to manipulate us and they want to buy influence. Other than that, we wouldn't have this great swing over to the Republicans with this PAC money, millions of dollars. And don't think those eyes aren't watching us that make up the strength of this Nation. The small, middle-class individual.

Now, I think it is essential that we pay attention to them and that we say no to the PAC money being given, and that way free them to be a part of strengthening our system, rather than destroying it with this PAC money going for access and for influence and blatantly saying, we expect something from you because we have given you this money, or we are going to withhold it next time and you will never get reelected.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much.

[The statement of Mr. Dickey follows:]

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Congress of the United States

House of Representatives

TESTIMONY
of
THE HONORABLE JAY DICKEY
Fourth District - Arkansas
Before the
Committee on House Oversight
Regarding
The Role of Political Action Committees in Federal Elections

November 16, 1995

Mr. Chairman and members of the Committee, thank you for the opportunity to testify at this important occasion. The 104th Congress is in a unique position to investigate the role of PACs in this nation's federal elections because, as a new majority in the House of Representatives, the Republican Party is not yet beholden to the money and influence of Political Action Committees (PACs).

It is evident to most Americans that Political Action Committees hold an enormous influence in this country. Under current federal election law, PACs can contribute up to $5,000 per election to a candidate for federal office. "Once per election" actually means up to three contributions per election cycle: once for a primary election, once for any run-off election, and once for a general election. In theory, a single PAC could contribute $15,000 to a candidate running for federal office during an election cycle. In contrast, an individual can contribute only $1,000 per election, or up to $3,000 per election cycle.

The 1994 elections resulted in Republican majorities in both Houses of Congress for the first time in over 40 years. These same elections brought about an interesting change in the way PACs contribute to candidates in Washington. A recent survey demonstrated this remarkable shift in the balance of PAC contributions.

The top 400 Political Action Committees handed out nearly 60% of their campaign donations in the first half of 1995 to House Republicans. This translated into more than $10 million in PAC

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contributions to House Republicans in the first six months of the year, compared to about $7 million for Democratic candidates. In stark contrast, during the 1994 election cycle, almost two-thirds of all PAC money went to Democrats.

It is my belief that this unprecedented partisan shift by Political Action Committees is a result of access to power, or perceived access to power. Do PACs believe that by giving to the candidates from the majority political party, they will receive otherwise unattainable access to Members of Congress who are in positions to exercise power?

During the 104th Congress, sixteen Members have introduced 17 bills intended to reduce the influence of PACs. Ten of them propose to ban PAC influence entirely and seven seek to reduce the limit of PAC contributions by as much as 80%.

According to Common Cause, a political watchdog group in Washington D.C., only 23 of the 435 members of the U.S. House of Representatives refuse to accept PAC contributions. My campaign is one of the 23 that does not accept contributions from PACs. I am also one of the ten Members of Congress who has filed a bill (H.R. 223) to eliminate PACs entirely.

In a recent survey sent to constituents of Arkansas' Fourth District, over 90% of the respondents answered "yes" to the question, "Does accepting money from lobbyist groups [PACs] interfere with Congressional representation?" Apparently the people of the Fourth District believe strongly that their Representative should not be accepting campaign contributions from Political Action Committees.

I urge this Committee and this Congress to act swiftly to eliminate, or at least strictly limit, the influence of PACs. It is my fear that if nothing is done during the 104th Congress, the financial influence of PACs will have completed its shift from the Democratic Party to the Republican Party, and we will find ourselves defending the status quo, having done nothing to reform the political landscape when we had the chance.

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The CHAIRMAN. Our last witness, a gentleman who as much as anybody I have ever known actually practices what he preaches, the giant killer from the Eastern Shore, the gentleman from Maryland, Mr. Gilchrest.

STATEMENT OF HON. WAYNE T. GILCHREST, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND

Mr. GILCHREST. Thank you, Mr. Chairman. You just need a sling and a rock.

I am going to be relatively brief. I want to just take a few seconds to give a little boring background which led me to this place, the U.S. Congress. Everybody, 435 Members of Congress, have fascinating stories to tell as to the road they took to get here.

In 1986, I decided to quit my job as a schoolteacher and go live in the wilderness in the northern Rocky Mountains. A year later I broke my jaw in a horse accident, came back unemployed, started painting houses to keep the family together, decided it would be interesting to run for Congress.

While I was painting houses, I ran in 1988 against an incumbent and got 49.6 percent of the vote. The primary election, against another Republican, I won with $300. The incumbent spent about $800,000. I spent $100,000. And it was pretty close. Certainly raised my status.

In 1990, I won with 57 percent of the vote, still outspent about 8 to 1 in the second election. In 1992, I ran against another incumbent who was pretty good at basketball. He spent about $1.600 million; we spent about $300,000. We did take a little PAC money, but it was probably about 20 to 25 percent of the total cost of the campaign.

Now, what I would like to—and I am not a evangelical preacher of campaign finance reform. But in an ideal world, I suppose, from my perspective, it would be positive to do the following: Take no money from anybody unless they can vote for you.

Now, I didn't create that idea. Campaigning in 1988, I ran across a carpenter going from door to door, shopping plaza to shopping plaza, supermarket to supermarket, I ran across a carpenter who was sitting down eating lunch on a bench near a park and I introduced myself and I said, you know, talked a little bit about Congress and so on, and he said, I haven't voted since the Eisenhower days. I said, why not? He says, because money is the poison that has caused the problem in the political arena, and until that is changed, I won't participate. And I said, what would you do? And he said, the law should be that no one can give you money unless they can vote for you.

Now I know this is sort of extreme, but like some of the other Members that are testifying, I did it, I tried it. What I think it has done has caused a number of things to happen. Number one, you better go out there and find people that are going to support you. Now I didn't go to my family and ask them for money. I said, I am going to run for Congress, can you help me pass out fliers? Now they gradually gave me a few bucks, but I didn't go to the family or friends. I didn't even go to my friends first because I was embarrassed to ask them for money unless I was going to paint their window or cut their grass or something. But it is a group of people that

recognize that you have something to contribute. So they surround you, they encourage you, you begin the process of raising a few funds, you get a little bit of credibility, you have a message. But the point is, you work very hard and you are dedicated to a position and people begin to recognize that.

Now I know some of the people up here probably testified earlier about public financing, and I know to a large extent people feel that that is a perspective that would level the playing field. One of the reasons I don't—two reasons I don't think we should have public financing. Number one, if you are out there and you are an individual and you have the courage or the tenacity or the insanity to run for Congress, you have to spend a lot of time strategizing how you are going to do it and what your message is. I would think if you are going to get $60,000, a hundred thousand dollars from taxpayers' money, balancing out what you raise, you are going to count on that instead of going to another shopping plaza, going to another group of voters to talk to them, or raising some money in an ingenious way. It sort of takes away from the creativity.

The other thing is, the perception of it to the public is we are trying to balance the budget, we are reducing Federal spending, and I just think across the board if people felt that their tax dollars were going to somebody that decided they wanted to run for Congress is not the thing we want to do at this particular time. So we have dropped the Voter Empowerment Act and we feel that—I feel, and we have done it several times now, it would be interesting if we pass the law that you can't take money from anybody unless they can vote for you.

And I know there is some constitutional questions involved in that. But I do think, like the Members have testified here, that we need to do something for the perception of money and politics, and then we need to do something to actually clean up the system so that everybody has a fair playing field.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much.

[The statement of Mr. Gilchrest follows:]

Statement of The Honorable Wayne T. Gilchrest (R-Maryland)

Before the Committee on House Oversight

On November 16, 1995

Mr. Chairman, first let me thank you for your leadership on this issue, and for allowing me to testify before this committee today.

Mr. Chairman, I'm proud of all that the 104th Congress has accomplished so far this year, and I enjoy going back to my Congressional district where I hear such positive feedback about the changes that are being made in our government.

But campaign finance reform is one issue that had been missed until now, and I commend this committee for holding these hearings. Campaign finance reform is a difficult issue because it affects each of us so deeply, and whatever changes we make could have a profound effect on our ability to serve our constituents.

I've felt strongly about our campaign finance system since I first ran for Congress in 1988. I faced a well-financed incumbent, who outspent me 8 to 1, and it took me two tries to unseat him. Just two years after getting into Congress, redistricting forced another tough challenge in my district, when another incumbent ran against me. Again my opponent ran a million dollar campaign with slick commercials and district wide mailers, but I was able to eke out a win.

Both times my opponents relied heavily on Political Action Committee contributions, drawing more than half of their campaign warchests from PAC dollars. In my 1992 race, more than 80 percent

of my opponent's funding came from PACs or from out-of-district sources.

At that time, it became clear to me how much influence money can have in congressional campaigns. Without the necessary funds to compete on television or radio or through the mail, many candidates don't have a chance. I was lucky -- I had an excellent organization in my district with hard-working volunteers, and I'd like to believe my message had a little something to do with it.

But money is critical to a campaign. After the 1992 election, I vowed that only the people of the 1st District of Maryland should have a say in who they send to Washington to represent them. It was actually a carpenter I met while out on the campaign trail who first gave me that idea. He suggested that no one should be able to give you money, unless they can vote for you. It made a lot of sense then and certainly holds true today.

After that '92 election, I introduced legislation to ban PAC money in federal elections. And I limited individual contributions to just those people who live within a candidate's district. I didn't have great expectations that the 103rd Congress would adopt my ideas, but I felt strongly enough about them that I adopted them in my own campaign. I am proud to say I have refused to take PAC money or out-of-district funds since that election.

I have received nothing but positive feedback from the folks back home. Even people who may disagree with me on some issues, respect the fact that they know how I got here. They like knowing

I haven't been bought off by some interest group, that I am free to vote my conscience and represent the people of the 1st District of Maryland.

Now, of course, this has meant a little extra work on my part going home and holding coffees, and fund-raising breakfasts, all at a grass-roots level with constituents who vote. But that has to be better than cocktail parties with lobbyists who have never set foot inside my district.

Political Action Committees began in the 1940s when organized labor was prohibited from using union money in federal elections. Still wanting to influence the legislative process, unions established separate funds to conduct their political activities. In the 1970s, steps were taken to broaden the use of PACS, and over the last 20 years the number of PACs has exploded. In the 1994 election cycle, House candidates received 35 percent of their campaign funds from PACs.

Now obviously not all PACS are bad. Many are groups of hard working people backing worthy causes. But the collective influence of PACs on elections is disturbing. Incumbents reap the most benefits from PACs, with 71 percent of all PAC dollars in 1994 going to incumbents.

Many of my colleagues would wince at the suggestion of buying influence, for many would never consider accepting PAC money tantamount to bribery. But whether we are beholden to these special interests or not, it certainly appears that way to the general public. Doesn't that alone undermine the public's

confidence in our electoral process?

I'm proud to be one of just 25 House members who don't take PAC money. I believe we have to lead by example. We've said that repeatedly this session: when Congressional committee staffs were the first to be cut in the our new fiscal responsible approach to governance, and when we enacted term limits on committee chairman and on the speaker of the house.

This year I have reintroduced the Voter Empowerment Act to return the power of electing representatives back to the people where it belongs. I would hope that my colleagues look favorably on these proposals, as many ran on a platform of reforming Congress. And I would hope we would act with some urgency. The 1996 elections are right around the corner, and as we speak plans are being made for PAC receptions all over Washington this evening.

At the very least, I hope to persuade a few more of my colleagues to lead by example. I am living proof that shunning PAC money won't end your Congressional career.

The CHAIRMAN. I want to thank all of the panelists, not just for your testimony and diverse positions, but for your willingness to return after you testified.

To begin the series of questions of the Members, I would like to call on the gentlewoman from Washington, who prior to becoming a Member of Congress was in fact the Chairman of a political party in the State of Washington, and has been involved in this area for a long time. She has her own perspectives, and will be a major contributor as we go forward in this process. The gentlewoman from Washington.

Ms. DUNN. I thank the Chairman, and thank all of you who came to testify. This has been a wonderful series of panels to discuss a very broad area of campaign finance reform.

I am a supporter of those who believe we have got to look deeply into each one of these campaign finance issues so that we can put a package together that is well-integrated. PACs are simply one portion of that package. I suspect some of you on the panel would like to be addressing other parts of the issue, and as we go through these hearings between now and May, I hope you will feel comfortable to return and help us out with some of the other areas.

I have dealt with this issue for many years as a party Chairman who helped other people collect money, be elected to office, and I dealt with interest groups and dealt with the issue from the position of a candidate, because of these experiences, my sense is that what we want to do is create a scenario that allows competitiveness, that allows the challenger to step into the ring and be able to work against an incumbent who is usually very, very well-financed for a number of reasons, who is additionally able to get his or her message out to the people in an effective way, not necessarily through the choice words of the media, and is able to present his or her point of view on issues in order to inform the public. So I think when it comes to PACs, I am not one who would outlaw PACs. I don't think that is the right way to go. I want to take a very deliberative look at this whole thing.

I am going to spend the rest of my time, Mr. Chairman, with Mr. White, since he is from my home State. I recall on election night standing next to him as we watched the returns. He had run against a well-financed incumbent, a colleague of Ms. Maloney, who came to Congress at the same time Ms. Maloney did, and who was very much a favorite of the Speaker of the House.

I really want to get to the core of this. Rick, tell us in your campaign how PAC money affected your race. Do you feel at this point that you are selling your vote to an interest group that has helped to elect you to office? And do you believe that there should be some influence cast by folks who belong to interest groups who live outside your congressional district?

Mr. WHITE. Well, Jennifer, number one, let me say thank you very much for your kind words and for all the help you have given me and also for being a leader on this issue. But I would say if there is an interest group that I feel beholden to at the present time, it is basically my Aunt Wanda. That is where my initial campaign contributions came from, from my family and my friends, and she does not have a PAC, but she has been very supportive. And that is the way my campaign had to start.

As I mentioned earlier in my testimony, we ended up the campaign begging, pleading, doing everything we possibly could to raise $40,000 in PAC money. My opponent seemed to have no trouble whatsoever raising $500,000 in PAC money, almost the total amount that I raised during that period of time. And so my conclusion was that, at least in my case, the PAC contributions worked very much in favor of the incumbent. And whether there are people who feel beholden to them or not, I don't know, but I do think that the main problem I saw is that they favor the person who is already in office.

Ms. DUNN. Let me ask, since I still have a little time left, a question of Mr. Gilchrest.

Wayne, you have got a unique situation, and talk about a Member with lots of different backgrounds and great interest to all of us, you are somebody that we have enjoyed so much working with here in the Congress. What I really want to get at, Wayne, you didn't take PAC money, you didn't take contributions from people outside the district. Was this because the incumbent was very unpopular? What I want to know is how did you get your message across to people and what can you do, if we limit or equalize PAC contributions to what an individual could give? How do you get the message out as a challenger? Is it impossible? Does it depend on a district where the incumbent is weak, or do you believe truly that we can do this considering all the advantages that an incumbent automatically has outside the realm of PAC contributions?

Mr. GILCHREST. Those are good questions, Jennifer. Both incumbents had, whether it was Mr. Dyson or I forget the other fellow's name now, Tom McMillen, that is right. They had an enormous amount of radio ads, an enormous number of TV and so on.

What we had to do was to be as creative with our message, knowing that we would have very limited time with it, to counter what the traditional dollars do for people that run rather large negative campaigns. And we, I think creative—creatively created a message that people could grab ahold of, even though we had a radio ad, for example, in I guess my third campaign, and only ran about two weeks, maybe even a little bit less than that, but it caught on and started this prairie fire that people began to talk about.

I understand how difficult it is to just do away with PAC money, to say that all PACs are corrupt, because there is a lot of good PAC communities out there, and to say that they overly influence a Member of Congress because I know they don't always necessarily do that. I just go back to the basics and say that if you think about what you believe in and you understand in a broad way and in some specific way what is good for your congressional district and what is good for the country, and you keep to that message, you are going to overcome an awful lot.

Ms. DUNN. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you. The gentleman from California, Ranking Member, Mr. Fazio.

Mr. FAZIO. Thank you, Mr. Chairman. And let me apologize, I have to go run a caucus meeting. And I am just going to kind of throw out a couple of things and hope that you can respond. And

believe me, I will get the response even though I can't sit here and hear it directly.

I think everybody is focused on the small donor issue. And I think it is something we all seek. It helps validate us. We have at the same time learned that direct mail is not the answer for Members of the House. That may be for Senators of great prominence. Certainly the only Members that I know of in the House who do well with direct mail or now telemarketing would be people on the ideological extremes. I know Bob Dornan has had some success; I think Ron Dellums used to. But there really isn't much that most Members can do in that regard. Some have looked at the checkoff on our tax form as a way of getting small donors to participate. I don't think that is a coercive use of public funds. It is a voluntary use of public funds. But we have been unable to move it from the Presidential campaign to Congress and some would even repeal it for the Presidential.

At the same time, we all talk about how much time we spend raising money. Every one of you would say, I want to do the job I was elected to do, I hate to have to go down to the campaign Committee or over to the firm I have hired and spend my time dialing for dollars. But the implications are if we are going to raise individual money in small amounts, we are going to spend a lot of time raising it. And as we lower limits for PACs or individuals or whatever, we are going to be spending even more to get even less. So I would be interested in your comments about how we go about reconciling the anomaly of wanting to reduce the amount of what we receive and yet somehow reduce the amount of time we spend to raise it. Because I think they are in direct conflict.

I would want to say in addition that I think while we talk a good deal about anti-incumbency in the current atmosphere, whenever we look at how we fix the campaign laws, we assume a great incumbent advantage. And yet as I look at this panel, most of you are rather recent arrivals. We have only turned the House over by 50 percent, plus, since 1990. It is not a long-term assignment these days. I think most of us realize that the advantages of incumbency are far more related to the political atmosphere than to anything we give to candidates for office as a tool, whether it be to run the first time or to run for reelection.

And let me just say in final comment, and I am interested in your reactions, many people have come and said, I have not collected PAC money, I have only run with individual money. I think you will find as a general rule, and I don't want to pick on the gentleman from Hope, but he is a good example.

Mr. DICKEY. I am from Pine Bluff. I represent Hope.

The CHAIRMAN. He represents Hope.

Mr. FAZIO. I thought I would build on the Chairman's comment. He represents Hope; he represents charity and faith as well. And those who have given to his charity have contributed to the tune of 60 percent of his money from the people who contribute over $200. They are not necessarily the little people who would give $10 or $15 or $25.

So while I give you credit, Jay, you certainly deserve it for hard work in fund-raising. I don't think we are free of having large interested givers as part of the mix, even when we eschew PACs as

a way to go. And there are ample examples of people who give to PACs who are giving $5 or $10 or what have you, whether or not they live in your district. They are contributing in small sums.

So let me just conclude by saying, Carolyn, maybe you can help enlighten us as to how to get that small donor. You have got a new idea about small donor PACs limited to $25. It is probably typical of far more PACs than people here would understand or believe, given the talk about big money to PACs. But I do think we do all want to concentrate on how to get smaller donors back into the game. Matching funds have been suggested as a way to do it. Maybe there are other ways. Maybe people are more confident of in-district giving, as Wayne suggests.

With that, Mr. Chairman, I would be interested to read the remarks of my colleagues and I have to run.

Mrs. MALONEY. Thank you very much. I propose creating a small donor citizen PAC that would be limited to $25. A citizen would not contribute more than $25. And this small donor citizen PAC would be limited to a contribution from this PAC per election of a thousand dollars. And the time to collect that money would be done by people who are affiliated with that PAC.

To make Mr. Gilchrest's example of collecting only from your district, and in my proposal I propose that 75 percent of your money come from your district. But you could have a Citizens Committee that would then have fund-raisers and collect small donations.

Again, I think that what we want to look at is limiting the influence of money in the system. And we all have our examples. In my first race, my opponent outspent me 6 to 1, $1.5 million to $250,000. And I had the example that you gave, that it was very, very difficult to raise money.

In my last race, both my opponent and I were very successful fund-raisers. But if what we want to do is limit the influence of money, I don't see any difference between a contribution from an individual and a contribution from a PAC. Maybe we need to change the mix, limit a third to small donor PACs, a third to big donor PACs, a third to individuals. But I don't see the difference, whether a member of a union contributes $25 to his PAC that then gives a candidate $500, and the executive giving a candidate $500. So I feel that money is money, and what we need to do is limit the influence of special interest or money by limiting contribution limits and spending limits.

The CHAIRMAN. The gentlewoman's time has expired.

The gentleman from Maryland.

Mr. HOYER. Thank you, Mr. Chairman. I don't have any specific questions. I missed the first, and I am in the process of reading your statements now, while I also listen to the answers.

Mr. White, you are in favor of a commission, is that——

Mr. WHITE. Yes, sir. I proposed a commission, yes.

Mr. HOYER. You mentioned in answer to Ms. Dunn's question about PACs and about how PACs had contributed very substantially to your opponent. But I take it you are not a—you are a supporter of PACs?

Mr. WHITE. Frankly, I am kind of agnostic on the issue. I mean, I will say that one of the troubling things is that I have noticed—

The CHAIRMAN. He used more aunts.

Mr. WHITE [continuing]. I am much more successful at PAC fund-raising now that I am an incumbent than I was before, which really confirms my concern that there is an advantage to incumbents. As I say, I really don't trust us. I don't trust Republicans or Democrats or anybody in Congress to come up with a system that is really going to be fair. And I think your best approach to get a fair system is to come up with a commission, none of whom are currently elected Members of Congress, and let those people try to come up with a system that works. I think that is the best approach.

Mr. HOYER. My understanding of the commission proposal is that it has a mechanism for those items that had two-thirds and those that had 50 percent, and those that had two-thirds would automatically come to the Floor, those that had half of the commission would come and go through the regular Committee process, as I suggested, as the Speaker's suggestion. Is that essentially what you are suggesting?

Mr. WHITE. Actually, it is not. That was the Speaker's suggestion. Mine would require just a simple majority of the full commission to send a proposal to Congress, and then it has to get an up or down vote under a procedure kind of like the BRAC Commission. I would say my proposal is pretty similar to the Speaker's. Great minds work alike on these things. But we do have some significant differences.

Mr. HOYER. I won't make any comments about that. Such a great opening, Rick, but I am not going to take it.

Mr. WHITE. I appreciate that.

Mr. HOYER. Jay Dickey.

Mr. DICKEY. Hi, Steny.

Mr. HOYER. How are you?

Mr. DICKEY. Fine, thank you. How are you doing?

Mr. HOYER. Your essential position is you think PACs ought to be outlawed?

Mr. DICKEY. Yes, sir. It is a matter of perception, not necessarily reality.

Mr. HOYER. And what does that mean, Jay?

Mr. DICKEY. Well, what I am saying is I think what we—what is happening is we are leaving the individuals out. What Vic said a while ago is what can we do not to spend so much time, you know, raising money. If we are doing it to individuals—and particularly in our districts or in our State, we are participating in the forming of representation that is beneficial.

You know, this business about coming back home is the number one issue with my people and if we are coming back. So it is a matter of perception and not reality that we are not convince—I don't think we are influenced by people who give money. Let's say the machinist group in Washington State giving money to my campaign, I don't really think I am influenced that much by it, but it is the perception of how it resonates with the individual voter at the lower end of the economy.

Mr. HOYER. Jay, one of the things that I have argued, you may not agree with, but in 1974, of course, when PACs were first adopted, they were adopted quite obviously to meet the Clement Stone issue, where he took 2 plus million out of his pocket and gave it

secretly to Nixon. And I am sure we had people on our side that gave a lot of money out of their pocket, because they had a lot of money in their pocket.

So PACs were devised as an organization to allow relatively small contributors—Carolyn Maloney speaks to that, as to how small is small, how large is large—to collectively contribute in sums sufficient to make an impact. They were a great reform.

Frankly, I think they are still a reform, personally, Jay. The reason is this. If Sam Brown, Sally Jones and Mary Smith each give $500 or $1,000 to my campaign and list their address as 1,000 East 22nd Street, et cetera, Hyattsville, Maryland, you see that on the list, you have no idea why they gave me a thousand dollars. They may even have given it because one of them was my aunt, as Rick has, or one of them may have given to me because they want me to vote X way and I agreed to vote X way. But the fact of the matter is, it is very difficult to determine.

But when the Steelworkers give me $1,000 or $5,000, there is no doubt in anybody's mind what the Steelworkers are interested in, and the public can make a determination Hoyer is doing their bidding or Hoyer is getting support for them because he believes in the same things they do.

Mr. DICKEY. That is the perception. Yes, you are right.

Mr. HOYER. So I think it is complicated in terms of the ultimate reform was and continues to be, in my opinion, giving the public the information on which to make an informed judgment.

Mr. DICKEY. Well, what do you think we ought to do, Steny?

Mr. HOYER. I think we ought to limit expenditures, as we did in some of the bills that have passed, and limit the mix. I think that was a good strategy to do.

I think there is obviously, as Wayne Gilchrest and others have proposed and the Republican Party has proposed I think more vigorously than our party has, greater reliance perhaps on contributions from your district. But there is, obviously, a downside to that, because in some districts one party, usually the Republican Party but not exclusively, has pretty much a corner on the wealth of the district. And that—Lewis has spoken to that, as I understand it, earlier; and that is a problem. And I don't know how we deal with that problem, and I have tended to believe that we ought not to limit to too great an extent just in district.

Because, very frankly, what all of us do does not just impact on our district. It impacts on the entire country. Wayne Gilchrest's leadership on environmental issues impacts on my district as well as his district, and it impacts on California and Colorado and Montana as well as it does on the First District of Maryland.

In any event, I thank the Chairman for the time; and I agree with Ms. Dunn, this has been an interesting and important hearing.

The CHAIRMAN. Thank the gentleman. I am going to ask each one of you some questions based on your testimony, but if someone else feels the spirit moved them, obviously to go ahead and respond. I am trying to focus on what I consider in my opinion some of the important aspects of your testimony.

Ms. Maloney, in the first hearing I indicated that there is only one judge on the Supreme Court today that actually participated

in the *Buckley* v. *Valeo* decision. He was an Associate Justice at the time. He is now the Chief Justice of the Supreme Court, Chief Justice Rehnquist. Although Justice Stevens was on the court, he did not participate in the decision.

Your argument that perhaps we ought to test constitutional limits I think is shared by a number of folk, not just because the Court has changed but I think because times have changed to a certain extent. We have a better understanding of what we are doing.

My assumption is that the dollar amounts that you provide for your concept of a small-donor, large-donor PAC are relative, they are not absolute. You mentioned a $25 amount it might be 50 or some other kind of a figure. You want to differentiate between people who contribute larger amounts and smaller amounts. Why is the dollar amount—if it is under whatever the prescribed limit, why does that make a qualitative difference, in your opinion?

Mrs. MALONEY. Well, one of the things that you are trying to do is limit the mix of contributors to campaigns, and one of the things that we are trying do is get more small donors, more individuals involved in the political process.

The CHAIRMAN. Why?

Mrs. MALONEY. I think that that is a—it involves more people in their government, that they are having a direct contact, feel that they are part of the system, that are supporting people that they believe in. But, as all of us know, it is very, very difficult to organize fund-raisers and to organize outreach. As Mr. Fazio mentioned very eloquently earlier, most of us spend more time than we would like fund-raising.

Now there is one way we could do—we could just say we are going to limit individual contributions and PAC contributions to $25. Then that would mean all of us would have to spend all our time on the phone.

The CHAIRMAN. I understand, but we have got to limit the responses. And, obviously, we can go into it. We are going to have a series of hearings on this. But it used to be the old saying that time was money and that to a certain extent if people couldn't contribute they could volunteer and that you could get services out of people without necessarily having them contribute.

One of the concerns which we will bring it up as we focus specifically on political parties is that, in part, times have changed, in part, people have changed; but it is my personal opinion, and I want to explore it with a number of people who I think will come before us, it is perhaps the way in which the laws have been written which have also changed. The emphasis from the old time is money and, therefore, participation is valuable versus contributions.

But I think your notion that a structure of ability to participate on a maximum level is governed by the amount that each individual contributes places a relatively high qualitative judgment on the size of the contribution, and that is something that we will obviously talk about. For the life of me, I am trying to figure out the qualitative advantage of being able to put more dollars in the system. That is the one thing that I was wrestling with in terms of your position.

Mr. Lewis.

Mrs. MALONEY. May I respond very briefly?

The CHAIRMAN. Very briefly.

Mrs. MALONEY. I wasn't calling for more dollars in the system. I was calling, as you know, for a limit on spending and a diversification of the contributors to that limit.

The CHAIRMAN. And I understand that. People who contribute less—people who contribute less individually get to contribute more collectively, under your system. Isn't that true?

Mrs. MALONEY. No, they would be limited to a third, a third, a third. A third for individuals, a third for——

The CHAIRMAN. No, but each PAC. I thought your citizen PAC would contribute twice as much, $1,000, versus the large donor PACs, $500. That is incorrect?

Mrs. MALONEY. Well, I would drop to $500. I would drop to $100, $100 in individual——

The CHAIRMAN. We are not yet writing limits. We will negotiate the amount later.

Mrs. MALONEY. And $100—I don't even have a bill in yet. I was just throwing out ideas. But I would fall to $100 in individual, $100 in small PAC, and $100 in big PAC. So my main point that I am trying to make is money is money, whether it comes from a large corporation, a union or a housekeeper who only makes $500 a week.

The CHAIRMAN. I understand. But your original proposal, the proposal you presented in your testimony, was a differential in the total amount a Political Action Committee could contribute based upon the size of the contribution of the individuals in the political action Committee. And my reaction to that was why quantitatively different amounts of money of individuals allows a quantitative difference? You have moved away from that a little bit.

My follow-up question would have been, it seems to me that you are basically favoring a particular type of PAC historically, and that would have been a union-based PAC versus a nonunion-based PAC. But the statement that you just made in terms of the amount of money is not as critical moves away from that qualitative difference.

Mrs. MALONEY. My main point is money is money; and I would support, just to make it very clear, a limit of $100 in individual, $100 in a large PAC; and I think it would be a good idea to create a smaller PAC for small contributions, $100 from a small PAC. But my main thing is we want to limit the influence of money, and by limiting it we can have a different mix. And, again, I think that we should challenge *Buckley* v. *Valeo,* go to the Supreme Court and have a fallback position if we don't win in the Supreme Court.

The CHAIRMAN. I understand that. But then the follow-up question would be if you are going to limit to such a small amount individual contributions, would my contribution to a PAC count toward the total that an individual could give? In other words, if I gave individually I could give, under your scenario now, $100. But if I gave to 10 different PACs $100, which would be the amount that I could give, or $25, the cumulative amount of giving to PACs would be greater than the amount that an individual could give.

So would you limit the contribution to PACs in that concept of yours to the total amount that could be given by an individual? In

other words, through PACs, could an individual give more to a candidate than they could individually?

Mrs. MALONEY. I think we should limit it to an individual contribution, whether you give to a PAC or your own individual contribution.

The CHAIRMAN. Then the contribution to the PACs ought to be equal to the maximum contribution that an individual could give. Otherwise, if you give to a PAC, you are giving less than you could have given if you gave individually. That is the point I am trying to raise. When you try——

Mrs. MALONEY. That is a——

The CHAIRMAN. Let me make the final statement, okay, so that I can move on to Mr. Lewis.

When you began shifting numbers around to try to create a qualitative difference in terms of a giving situation, as we have seen from legislation that has come up since the early 1970s, you create unanticipated consequences that you have to deal with. And although I will enjoy talking with you in terms of the mix and match of the size of contributions individually to PACs and to others, I will continue to come back at you with the consequences either qualitatively or quantitatively of the way in which we change the numbers. But I look forward to discussion.

The CHAIRMAN. I would tell the gentlewoman that I would like to ask the gentleman from Georgia some questions.

In your comments, Mr. Lewis, I think you bump up against the Court decision as well. Because, frankly, as you may know, in the early 1970s, Congress limited the amount that individuals could contribute; and the Court declared that unconstitutional; and, frankly, a number of us also think we could pursue that statutorily with the new Court. I am just wondering if you believe that the individual limit has a constitutional basis to it, or would you be willing to explore limiting individuals statutorily?

I know your bill doesn't, but I wonder if you have any discomfort level from a constitutional point of view about telling someone that they would be restricted on how much they could contribute of their own money to their own election.

Mr. LEWIS. Well, I have some concern in that it may be a violation of people's rights to participate, a whole question of freedom of speech, to tell a person you can only use a certain amount of your own money. It is something that I would like to explore.

The CHAIRMAN. The problem, of course, is that when we talk about freedom of speech, it is whether you do it with your own lungs or a megaphone; and, unfortunately, dollars are the determination, in part, of whether it is your own lungs or a megaphone.

I was very appreciative of your focus on the relative value of the current limit, both on PACs and individuals, because I have tried to interview people who were involved in the process in the early 1970s and what they thought about how much $1,000 was and how much $5,000 was. There were debates that went on concerning what the limit should be, and they came up with what they thought was an appropriate amount of money. It wasn't $325 for individuals, and it wasn't $1,675 for PACs. It was $1,000 for individuals and $5,000 for PACs. I have asked, why didn't you think

about indexing the limits? Their answer was, we thought that was a lot of money.

Mr. LEWIS. Well, Mr. Chairman, I guess back in 1974, $1,000 for a lot of people appeared to be a lot of money, and $5,000 appeared. But today, in 1995, we move toward 1996, it is really—you can't get that much for $1,000, $325 maybe, and for $5,000, $1,600 or a little more.

The CHAIRMAN. Do you think—and maybe this is really almost a rhetorical question, because it seems to me that this is the attitude of people who want to keep contributions even relatively lower than they are now by dropping the amount that people could contribute—that apparently in the 1970s, $1,000 was kind of a level, a corruptible level, let's say. Above that, you were worried about it. Does it really mean that today the corruptible level is the $325?

Mr. LEWIS. I am not so sure. I don't think we should limit—we should bring it down. Maybe the level that we have maybe should remain there.

Mr. Chairman, I must tell you, I do accept PAC money, and I don't feel beholden to any organization or any PAC that I receive dollars from. And, as my colleague from New York suggested, money is money. You have little people pooling their resources. It may be a group of janitors coming together, working in a union, a group of businesspeople. But money is money.

The CHAIRMAN. And, of course, the key is to disclose it; and that was the first and the basic principle of our current campaign finance.

Mr. LEWIS. And we must continue to disclose all our contributions.

The CHAIRMAN. And I would just refer to you, and I will use your testimony as an example, the Wall Street Journal today has a very interesting editorial. It is titled, The Man Who Ruined Politics, and it has a picture of Fred Wertheimer, and an editorial about their view on the way in which campaigns should be run.

Mr. Gutierrez, I read your—and we are going to visit over lunch a couple times. The idea—when you listen to the structure initially, it sounds, frankly, somewhat Rube Goldberg and rather complicated. But when you take a step back and look at it fundamentally, basically what you are saying is that if people are so itchy and anxious to participate in the system and it is above a fixed level and they are willing to pay a tax for it, then that will help money come into the system, and we can use it.

Kind of like a gas guzzler tax. If you want the big car and if you want to be seen in the neighborhood, then you've got to pay for it with a gas guzzler tax. Is that a fair analogy of the way you are looking at where you are going to get some money with this tax on PACs?

Mr. GUTIERREZ. Well, Mr. Chairman, let me just say that the—and we got this from the Democratic side, from the DCCC, the information. They said that the average candidate received $50,000 in PAC contributions and that approximately $30,000 of that $50,000 was above the $1,000 level. So that if we had my PACs tax on the basis of 2,593 candidates, at $11,888 per candidate, taxing the overexpenditure, we have got about $30 million here in a pool.

Now I think the important thing is that I kind of take a middle road with this PAC tax. I don't say we are going to get rid of them together. I say we use them as a tool and an instrument and kind of rein them in as you suggest. If you want to give the big $5,000, you can still give it, but there is a tax that helps other people.

So I thought, look, it helps us because, remember, under my proposal as currently drafted—and I look forward to having those lunches with you; we will make sure that no PAC picks up the tab as we do that—that $200 or less in contributions get maxed by this pool of money. That is not public money, because it comes from a tax on PACs. So it is not public money, and it would encourage a candidate—and only the candidates who say I will limit my campaign expenditures to $600,000 get to be in the pool.

So I think it helps us do a couple of things. It says, go out and raise $200 and less contributions, and you are going to get matched by those contributions. And if the candidate spends a whole bunch of money, as in your imagery that you gave us, if you got that big old Cadillac out there, right, and you got the million dollar campaign, it gets taxed to help the—maybe the guy driving the—I am trying to think of the Saturn, because I want to mention an American car.

The CHAIRMAN. There you go. And the other thing I like about it is that it shows some creative thinking in terms of looking for sources of money that could be utilized in the system that doesn't automatically go to the Treasury and utilize taxpayer dollars.

Mr. GUTIERREZ. One other suggestion, Mr. Chairman, and you know you were very helpful in getting my proposal for three months before and for the franking, and if we could like look at—I know it doesn't deal specifically, but since I have you right here in front of me, if we could get that——

The CHAIRMAN. You can go out of the box.

Mr. GUTIERREZ. Another suggestion is if we could get that permanently as we discuss campaign finance reform so it is part of the mix.

The CHAIRMAN. I tell the gentleman from Washington that he is new to politics and new to the House and part of the new Majority. One of the things we have done around here is we have broken most of the mold about what people think we would or would not do.

As Chairman of this Committee, I am not inclined to create a system that favors incumbents beyond whatever an inherent advantage to an incumbent might be. There are some inherent disadvantages to being an incumbent, one being you have a voting record. But there are a number of noninherent advantages to incumbency currently in the structure, and I think those are the ones you are focusing on. I have no interest in perpetuating noninherent advantages to incumbency. So we have already broken some molds that we have done and some packages that we have put together, and I look forward to working with you in that area.

Mr. Dickey, you talked about PACs being primarily a perceptive problem rather than a realistic problem. PAC proponents would argue I think to a certain extent that what PACs have done is brought people into the system through education and involvement

and perhaps even stimulated interest in elections through that education and through the shared contributions they might make.

Do you have any feeling about whether, if you didn't allow PACs to participate, the dollars that the individuals now give through the PAC system would flow into the political system without PACs, or would there be possibly a diminishing of participation?

Mrs. Maloney's concern is that we want to try to keep those people involved in the system, and if you do away with PACs, do you think the dollars and the individuals involved would move to another venue or avenue, or would they perhaps not be involved?

Mr. DICKEY. I think they would evaporate; some of them would. Maybe a substantial percentage would evaporate at first, because most of the people I talk to that give to PACs don't feel they have any access to decision-making at all. They feel that lobbyists have their own agenda, their own politics is going on and they are outside of the picture and they give to the PACs to keep their jobs or to buy a little peace. I think it would be up to us to find those people and get back with them and try to bring them into the system.

One other thing, if we are trying to make better decisions in government, that is why it is important to go to the individuals and ask them for their support and when you ask them for their support and they say oh, no, I wouldn't dare support you because of so and so, and so and so, you are getting an opinion. Or yes, I am going to give this to you because of your opinion. Individual opinions collectively makes a stronger rope to carry our government with.

The CHAIRMAN. I guess my response would be why aren't PACs individual connections delivered collectively, but we will pursue that.

Mr. Gilchrest, when you talk about 100 percent of your contributions coming from people who live in the district, what role do you envision or believe political parties should play in that scenario? Would it be the political party helping you to structure those individual contributions, or would it be the political party could be involved through in-kind contribution, or would you prefer political parties not be involved, and could that be why you focus on individuals only.

Mr. GILCHREST. We have, in my case, chosen not to take any party money, national party, State party. I do think, and I want to agree with Jay and some of the others, that it really does—we can't put aside the individual potential for creating and stimulating initiative on the part of the voters to participate in the political system. That is, in my mind, infinitely more important than all the dollars you could collect.

If people feel that they are attached to a candidate or a representative then they are going to come out. And it is the responsibility of the candidate and the elected official to do that. I have no qualms with putting that aside.

If the State political party, Democrat or Republican, wanted to participate through the existing laws right now, no more, but through existing laws to contribute to campaigns, I would accept that. I think I would also accept on the national level the Democrat or the Republican Party through existing laws as far as what they contribute to an individual candidate.

One other comment. As far as the $1,000 contribution, I wouldn't change what individuals can give as well. And I realize $1,000 doesn't go as far as it used to go.

The CHAIRMAN. We are going to have a hearing on the role of political parties. Some of us think that political parties are unique institutions in the system. They are the only ones who recruit candidates and attempt to get them elected and also program public policy. I think all of those happen to be important functions and they are the only institutions that perform all three of them. Others are involved in other aspects of it——

Mr. GILCHREST. Although, Mr. Chairman, I wasn't recruited nor drafted. I sort of dropped out of the sky on the poor Republican.

The CHAIRMAN. I understand that, and the gentleman has a fascinating story. And I think our job is not to pass legislation on unique individual instances, but look at the larger collective.

In terms of the question that Mr. Fazio posed about if in fact you favor smaller dollar amounts in the system, what about the time spent on raising those smaller dollar amounts, as he called it, "dialing for dollars?" I think there is a difference in terms of where you get dollars; not just how much.

I think one of the concerns is that in the current system you get more dollars faster staying away from your district most often than you do by coming to your district. You can go to large urban centers where dollars are given in concentrated events.

Mr. Gilchrest talked about 100 percent, which I think has some constitutional problems; Mrs. Maloney talked about 75 percent. I think we have to go back to the criteria that *Buckley* v. *Valeo* established, I think is a useful one as we go through this pursuit, and that is does it assist us in dealing with either corruption or the appearance of corruption in the way in which we focus on the parameters of givers and giving.

It seems to me that if we focus in terms of creating some kind of a system that focuses more on individuals who could participate in the process; that is in district, that the time spent interacting with people in the district wouldn't necessarily be seen as time wasted by most people, because after all, you are interacting with those people who you are supposed to represent.

The fact you tend to represent people outside your district as well, constituents are the determiners of whether or not you return to office by virtue of being able to vote for you.

Mr. DICKEY. Mr. Chairman, I want to draw an analogy to the Wal-Mart system that has been so successful in merchandising. There was a definite turn of events, as I am told, when they went to their associates and said you give us your ideas. You are the ones who are actually, the rubber is hitting the road with you, we are here in an ivory tower, our ideas don't seem to work. What happened was Wal-Mart started saving money, they had innovations, they got an enormous number of ideas and support and structure from that experience.

I don't want to bore this panel with this point, but I want to say that we are trying to get better decisions, we are trying to create a better working government. Why in the world are we trying to ignore the very people who come in contact with the mistakes and they can see ideas better if we set up a system where we are going

to them and asking them for their money, whatever it might be, we are going to get that strength of suggestions and creativity from them by the very system of raising money.

Then we say the time we spend raising money is making our whole government better, and we turn this thing around so that we are on the flip side, rather than saying it takes so much time to raise money, which is your point; that if we get to the bottom of it and bring it up, we will be a lot better off.

The CHAIRMAN. I thank the gentleman for his observation.

Thank you.

Mr. LEWIS. The impression should not be left that money from Political Action Committees is somehow outside, that it is foreign, that it is not connected to the local district or to that State or to that indigenous community. When you get money from a political action Committee, they may be based in Washington or New York or California. It is that recommendation of the people in that district, that city or State or county, and many of those people have contributed, participated in that pool. So we shouldn't look at PACs as something that is foreign or something that is strange or weird about it. I think we have an obligation to say these people have a right to pool in resources to have the greatest impact.

The CHAIRMAN. They currently are legally allowed to do so.

I want to thank the panel and the Members for indulging the Chairman in trying to get to some basic concerns.

The gentleman from Ohio might want to inquire.

Mr. NEY. Thank you, Mr. Chairman.

I have a quick question. I am sorry I arrived late. I had something else I was required to be at.

Everybody has a story to tell. I defeated a former Chairman of this Committee against some incredible odds 15 years ago in the Statehouse, and I had mixed opinions at that time about the groups helping him and the groups helping me. He had a lot of PAC money and I had some PAC money, but I thought his were appropriate PACs and I thought mine were.

I think if you start to pick, I like this PAC but not that PAC, I have had campaigns since then; I have had labor money, small business PACs, whatever the issue is, and in the last campaign I had more individual money. I think that is to each their own and how they view the system.

I don't think that if you say PACs, and the PAC came from Washington and if a farmer contributes or a labor union contributes and money comes to Washington and they support you, it is still your local people, your local farmer, your local labor person, your local businessperson. I think some of the PAC has been sent to a hyper-level here over the airwaves and has been made worse than it is. I think it is how you approach, do you call and say I want contributions. I think that type of thing is wrong.

Having said that, my real concern, and I would aim the questions to the people who want to ban PACs, but ask the panelists, my concern for the future of politics if we set campaign limits, which I have no problem to set limits, what about the millionaires? This week we have heard so many millionaire Members of Congress say let's stop the paychecks. I would be willing to do that if

they would stop their trust funds and all their money that they make on the outside that is legal or inherited.

Sometimes it is easy to stand there and say let's stop the paychecks of the Members, or let's limit things, but what about the millionaires. I have heard today from panelists money is money. My concern is that we have limits on the groups that can give, we have limits on the individuals and that is fine, but what about the millionaires who can dump in as much money as they want. So the people who want to ban PACs, where do you stand on the millionaires?

Mr. WHITE. Let me address that, although as I said, I am not, I haven't decided that I necessarily would want to ban PACs. I think we need to leave that to a group that is not necessarily going to be biased the way we are because we have all been in the system. We talked a bit about the Supreme Court, how it might change some of its rulings in the *Buckley* v. *Valeo* case.

I think we have to remember, one of the problems with the campaign finance system we have now is that half of the system enacted in 1974 was ruled unconstitutional. I think it is incumbent upon us to think about the constitutionality of things we do.

My view as a lawyer is it is unconstitutional to restrict what an individual can spend, and frankly, I think it is probably also unconstitutional to restrict what an individual can give. I think one of the things I would like to have a commission look at is maybe whether maybe we should take all limits off but just require full disclosure. I think that would be one approach that maybe a commission with some academic empowerment and academic contributions to might be able to come up with a proposal like that better than we can.

One idea about the concept of spending limits, really when you get down to it just about any limit on any kind of campaign finance in any direction is always going to disfavor the challenger, in my view, because you already have the incumbents there with the advantages that incumbency has, and of course the disadvantages, too.

For example, the $600,000 number that people talk about, it just so happens that if you look at the academic studies, $600,000 was the threshold point at which a challenger in 1994 started to become viable. So if you limit it at $600,000, you are basically already making it difficult for a challenger who isn't well-known to get beyond the threshold to where they can be well-known.

We talk a lot about limiting campaign contributions to your own district. Well, you know, my Aunt Wanda lives in Indiana, so if I started my campaign solely from people in the district, I wouldn't have been able to get to the point where I could attract other contributions.

So I just think we have to look very carefully at all these limitations, including the limitation on millionaires.

Mr. DICKEY. I am not in favor of banning PACs, just PAC contributions. The question of a millionaire if it favors the millionaire, I am against that. In fact, then they could come in and control a race just by their own resources. I think that is a valid point.

Mr. LEWIS. Well, you know I support political action Committees and I have reservations about limiting the amount of money that an individual can put into his or her own campaign.

Mr. GILCHREST. Mr. Ney, you talked about diversity, let each person do their own. I think we need biological diversity in our legislation to protect the environment.

Two, I came here to contribute my perspective and I realize all of us need to contribute a perspective to unlock this problem. I would not mind a little bit of diversity depending on what one district needs, another is different. But diversity, to allow flexibility in a campaign finance reform bill I think would be the best way to go.

My last comment is about Wal-Mart. Wal-Mart might be good for Arkansas, but Wal-Mart has used their dollars instead of creating fine little communities and little stores, they have pushed their way into communities that don't want them. I hope Wal-Mart stays in Arkansas and they are prosperous, but they have pushed their way around the country and into my district, and I think have gone too far. Campaign finance reform flexibility I think is the way to go, Mr. Chairman.

Mr. NEY. Let me make it clear, and I am not opposed to millionaires, you ought to have people here of all backgrounds. That is what makes a great Congress. I am just concerned that they can buy elections if allowed unlimited amounts of money. So I have no personal problem with millionaires. Maybe I would like to be one. I won't be.

The CHAIRMAN. We are going to have a hearing on the individual contributions, not just the amount, but the question of millionaires and the rest.

Ms. DUNN. Mr. Chairman, I don't want to start a second round of questions, but I tend to agree with those of you on the panel who believe that people should have the right to contribute through PACs. I also would say that equalizing what PACs can contribute with what an individual can give might be the right way to go, but I think we are dealing with some very serious public perceptions.

I always take the deliberative approach. Let's strip away the emotionalism and get to the real problem and the real answer to the problem. I am not sure we can solve the whole problem here, but it is true that the public perceives that we are sitting in Washington, D.C. picking up the phone and calling PACs to get $5,000 donations at one whack instead of getting home to talk to the individuals that we represent in the Congress. That is a big problem.

We have got to figure out how to handle that. That is a problem that may be solved by equalizing PACs, but I think it has to be integrated program. The result that I would like to see is one that would make the situation competitive. A lot of times, again, another public perception, and also a reality, is that PACs give to a candidate, usually the incumbent, because of the almost guarantee that the incumbent will be reelected.

At one point a couple of years ago the reelection rate was 94 percent. So a PAC is going to be very risk-taking oriented. If they are going to give to a challenger, to an incumbent who will be there to deal negatively, PACs may proceed with the issues that PACs are interested in.

These are public perceptions and we have to figure out how to solve them. The answer is to make the field more competitive, make the incumbency less of a guarantee for reelection so that PACs can be truly a democratic representation of a group of folks who want to give money to the candidate who espouses an agenda that they approve of.

The CHAIRMAN. I thank the, gentlewoman.

I thank the panel once again.

As the next panel comes up, as an editorial comment, I would refer you once again to "The Man Who Ruined Politics" in the Wall Street Journal, Fred Wertheimer, Common Cause.

In my personal opinion, this is one of the primary reasons that the public perceives us the way they do and the distance between perception and reality.

Our second panel is a group of individuals who are partially from academia and through real world involvement have as a part of their activities the involvement with the question of political action Committees. Edward Crane is President of CATO; Steve Stockmeyer, is Executive Vice President of the National Association of Business PACs; Joel Gora, Dean of the Brooklyn Law School, representing the American Civil Liberties Union; Ken Parmelee, Vice President Government Affairs, Rural Letter Carriers Association; Steve Driesler, Vice President Government Affairs, National Association of Realtors.

I understand you all have pressing time engagements. I would love to interact with you all afternoon, but if you have to leave, I understand you do. I would try to get at least one panelist in prior to having to go vote and would begin with Mr. Crane.

The Chair would indicate that if you have written testimony, it will be made a part of the record, without objection, and you may proceed any way you may wish to inform the Committee for five minutes.

STATEMENTS OF EDWARD CRANE, PRESIDENT, CATO; STEVEN F. STOCKMEYER, EXECUTIVE VICE PRESIDENT, NATIONAL ASSOCIATION OF BUSINESS PACS; JOEL GORA, DEAN, BROOKLYN LAW SCHOOL, AMERICAN CIVIL LIBERTIES UNION; KEN PARMELEE, VICE PRESIDENT, GOVERNMENT AFFAIRS, RURAL LETTER CARRIERS ASSOCIATION; AND STEVE DRIESLER, SR., VICE PRESIDENT, GOVERNMENT AFFAIRS, NATIONAL ASSOCIATION OF REALTORS

STATEMENT OF EDWARD CRANE

Mr. CRANE. Thank you, Mr. Chairman.

I congratulate you and the Speaker on your principled stand on an issue that is not as popular as it should be at this point in time. I appreciate the opportunity to address this Committee.

I have a few brief points to make. First, when we talk about PACs and their impact on the political process, we are talking, in my view, about a nonproblem. It is true the media don't like PACs but they tend to oppose any political force that can bypass their filter. And it is true that certain Members of Congress like to demagogue the issue when they go back to their district on white horses

and say I voted to clean up the system, I voted against PACs, as though that means something.

Mr. Chairman, the average PAC gives less than $1,000 to House candidates and less than $2,000 to Senate candidates. The implication of those demagogues is that their colleagues will roll over and play dead or stand on their heads or do whatever they are asked to for these modest contributions. There is absolutely no evidence that that is the case.

In the debate over PACs rhetoric and reality are two different things. PACs are a nonproblem. There is no evidence that they do anything other than enhance the Democratic process, and in my view, it is insulting to Members of Congress to suggest otherwise.

Second, a Cato Institute study by Brad Smith cited in the Wall Street Journal article the Chairman mentioned and earlier in the week by David Broder of the Washington Post, cites empirical research showing that the top three factors influencing the way a Congressman votes have nothing at all to do with money. The first factor that influences votes is ideology. Most Members get into politics because they have strong views about various political issues, and that ideology stays with them through their careers.

The second factor is party agenda. We have a two-party system in America and the leadership constructs certain voting strategies that affect the way Members vote.

The third is voter sentiment back home. Members are very interested in what people back home in their districts think about many issues. So those are the major factors that affect the way Members vote and that has nothing to do with money.

That also brings up an ancillary point, because whatever influence PACs do have is more likely——

The CHAIRMAN. On the ancillary point, can you please hold it, because we have less than 10 minutes to get over and vote?

I was hoping I could get your testimony in before we have to go vote.

The Committee stands in temporary recess.

[Recess.]

The CHAIRMAN. The Committee will reconvene.

When we were last in session Mr. Crane was making an ancillary point.

Mr. CRANE. The point dealt with the reason why Members vote as they vote, and my point was that it had little to do with money, mostly with ideology, with party agenda and with voter sentiment, which brought up an ancillary point because whatever influence PACs do have is more likely to be a function of their ability to mobilize their supporters than their ability to cut a check for up to $5,000. That is why groups ranging from the Christian Coalition to the NRA to the labor unions to the NFIB get the attention that they do; because they deserve it.

They represent millions of Americans who happen to feel strongly about certain issues. What could be wrong with that?

There is also the reality of PAC spending. There is plenty of competition for the attention of Members on any major issue and that competition often comes from PACs on the other side of the issue. Furthermore, Members are free to reject PAC contributions any

time they want to and those contributions are, in any case, fully disclosed.

If the case for restricting or eliminating PACs is ultimately driven by a desire to get money out of politics, then that case is based on a faulty assumption. As the Speaker said the other day, we are spending too little money on political campaigns, not too much.

For obvious reasons, it is in the electoral interest of incumbents to restrict spending and quiet the campaign. Incumbents invariably start the campaign with a huge advantage in name recognition; the less vibrant the campaign, the better their chances for reelection.

As Brad Smith's study makes clear, the more money spent in a campaign, the better informed are the voters. Further, each additional dollar has more benefit for the challenger than for the incumbent.

So, Mr. Chairman, we can very well see what Congress was up to when it passed the 1974 Federal Election Campaign Act. People forget that part of that act that was struck down by the Supreme Court involved $70,000 spending limits for House races, $100,000 spending limits for Senate races, or 8 cents per voter. What kind of disdain for the political process and contempt for the American voter is involved with saying we will allow spending on campaigns up to 8 cents per voter?

Mr. Chairman, America spends more money today on yogurt than on presidential campaigns, about $3.00 per eligible voter on average in congressional races. How can $3.00 get Common Cause so apoplectic? Brad Smith estimates we spend in every two-year election cycle somewhere between $7.50 and $10 per eligible voter on all election campaigns, from dogcatcher to State legislature, to Congress, to the Presidency. So those who suggest we are spending too much on campaigns are either ignorant of the facts or pursuing some other agenda.

Finally, I would address the constitutional question of banning PACs. The Chairman may be aware of Congressman J.S. Hayworth's efforts to create a Constitutional Caucus in the House. There are now, as I understand it, approximately 100 Members of that caucus, the purpose of which is to take seriously a Congressman's oath of office to uphold the Constitution.

We tend to think that oath is only taken by Supreme Court Justices and the President, but a Congressman is not supposed to vote for a piece of legislation that he or she feels is unconstitutional and should way the constitutionality of any issue before Congress before voting on it.

I would urge Members to consider the First Amendment before voting on any legislation dealing with limiting or restricting PACs. Let me read briefly from the First Amendment. This is a short amendment, as you know.

"Congress shall make no law respecting establishment of religion or prohibiting the free exercise thereof or a bridging the freedom of speech or the press or the right of the people to peaceably assemble and to petition the government for a redress of grievances."

Mr. Chairman, free speech, the right of assembly and the right to petition Congress are sometimes interdependent. PACs are a excellent example of that fact.

As the Supreme Court said in *Buckley* v. *Valeo,* dollars are not stuffed into ballot boxes. The mediating factor that turns money into votes is speech. Advocacy cannot be proscribed because it is effective. It is estimated that some 12 million Americans contribute about $12 a month to PACs each year. I think that is a good thing. It is not a problem.

I would respectfully suggest that Congress lift contribution limits for individuals and leave PACs alone. That would be real reform in the interest of healthy and vibrant democracy.

Thank you very much.

The CHAIRMAN. I thank the gentleman.

[The statement of Mr. Crane follows:]

TESTIMONY OF

EDWARD H. CRANE

PRESIDENT AND CHIEF EXECUTIVE OFFICER

THE CATO INSTITUTE

COMMITTEE ON HOUSE OVERSIGHT

U.S. HOUSE OF REPRESENTATIVES

NOVEMBER 16, 1995

Thank you, Mr. Chairman and Members of the Committee for inviting me to testify before you today. Campaign finance reform is one of my highest priorities and one where the truth lies far below the surface.

I would like to take this opportunity to commend both the Chairman and the Speaker for having the political courage to stand up against the status quo and take the unpopular - but correct - positions on campaign finance reform.

As you know, we at Cato regularly criticize the Republican leadership when they compromise the right positions for the easy or status quo positions. I commend you today, Mr. Chairman, and the Speaker, for taking the tough and unpopular position, for erecting a fire wall between the legislative process and the hypocritical one-sided hysteria fanned by Ross Perot, Common Cause, and Rep. Linda Smith.

They are wrong. Their reforms are wrong. The reforms they support will do nothing but enhance the power of millionaires, incumbents, and the media. They will restrict, if not cut off entirely, the free flow of information to the voters.

At last count, there were 23 separate campaign finance reform bills before this committee. Most contain the same basic elements, just arranged in somewhat different combinations.

Many of these reforms, including PAC reforms that we are discussing here today, raise serious Constitutional questions. I am not a Constitutional scholar - although we have one of the country's finest at the Cato Institute. I respectfully suggest that the Chairman consider a separate hearing to address the constitutionality of the proposed reforms.

We are here today to discuss PACs. PACs, as we know them today, are a creation of the 1974 campaign finance laws. It is appropriate, after 20 years, to take a look at PACs and assess their impact:

What real effect have they had on the American political scene? What are the real and/ or perceived problems we need to correct? What evidence and examples do we have of earlier reforms gone awry?

Why does the American public seem to hate PACs? If you listen to Ross Perot and the mainstream media, PACs "control" Congress, PACs are elite procurers of influence. Nothing is further from the truth.

I suggest to you that what we have is a case of the Emperor's New Clothes. There is a conspicuous lack of evidence that a problem exists - much less as portrayed in the media or in popular rhetoric. There are no examples of abuse or scandal involving PACs. PACs have in fact, brought millions of Americans

into the political process, and, with the full disclosure requirements, brought them in under the full light of day.

If you want campaigns financed by small contributors, you want PACs. Estimates are that 12 million Americans across the country contribute an average of $12 a month to PACs. Tens of thousands of American teachers, firemen, and letter carriers give less than $30 a year. PACS enable millions of voters to become involved in the political process in a meaningful way. Writing a check for $25 to a campaign quickly disappears - the candidate has no idea why an individual is giving, what issues are important to him or her.

By giving to a PAC, small contributions gain meaning, power and attention. PACs monitor candidates voting records, question candidates on their beliefs on issues of interest to their membership and pass all this information along to their contributors. Small contributors gain access to information they would not have easy access to otherwise, information not available through traditional media, information on the issues that they have decided are important to their lives.

Every election cycle, every one of your campaigns is besieged by a flurry of questionnaires and ratings. The ones that matter to you are the ones that reflect your constituency.

That's why the NRA is so powerful. That's why the pro-life movement and the Christian Coalition are so powerful. They represent huge numbers of Americans in many many districts.

I suggest to you today that much of the negative press on PACs exists because the establishment media simply doesn't share the beliefs of the millions of Americans who are pro-gun, or pro-life, or openly religious. The media's bias on this issue obscures the plain facts.

That's also why the NFIB, the Grocery Manufacturers and the Realtors are so powerful. They also represent millions of Americans in industries in districts all across the country.

There are two types of influence relevant to our discussion: the influence of campaign contributions on elections and the influence of campaign contributors on the legislative process.

Cato recently released the signature study on these issues, *Campaign Finance Regulation: Faulty Assumptions and Unintended Consequences* by Capital University Law Professor Bradley A. Smith. Two of Prof. Smith's key findings answer the question of buying votes and influence.

First, on the issue of money controlling the outcomes of elections - PAC spending does not buy elections. *Money can only get a candidate's message out. There is no guarantee that people*

will like what they hear. Freshman Republicans who beat incumbent Democrats were outspent on average by one-third. And history is full of millionaire big-spenders who lost.

Money does matter - and matters most to challengers. What is important is that challengers spend enough to have their message heard. Prof. Smith found money positively correlated between challenger spending and performance but found no connection between incumbent spending and performance.

Second, to the question of money buying legislative votes, Prof. Smith found that campaign contributions do not, repeat, do not affect many votes in the legislature. In fact, empirical research shows the primary factors affecting legislative votes are ideology, party agenda and public opinion - not money.

Therefore, contrary to the popular myth that PACs dictate views and votes, PACs have power only when they represent members' constituency. Members of this committee have, most likely, refused checks from PACs when they don't want to be associated with that particular PAC's agenda. More to the point, many PAC checks simply do not arrive when your views and voting records don't match the PAC's agenda.

If anything, we should be looking for ways to bring more small contributors into the political process, not restrict or remove an effective means of engagement.

One reform I support as a means of bringing more small individual contributors into the process is tax deductibility of political contributions.

Ideally, and, hopefully, in the not too distant future, we will be rid of tax deductions forever as we replace the current tax system with a retail sales tax (or flat tax). That, however, is a separate set of issues for another day.

Until that time, however, I suggest that tax deductibility would mean more to potential small contributors that to the wealthy. Will the wealthy give more? Almost certainly. But, as the Speaker so accurately put it, the problem with political campaigns is not that we spend too much money, but that we spend too little. As our study shows, all that money can do is make sure information gets out, that a message is heard. There is no guarantee that people will like what they hear.

Throughout this debate there is an underlying current that money is evil, that somehow, we just have to get the money out of politics. Keep all those terrible lobbyists and special interests away from our weak-willed Members of Congress.

Ladies and gentlemen, this is nonsense. The last thing we need is cloistered legislators, removed from valuable sources of information and opinion. Every member of Congress knows how valuable lobbyist and PAC information is to the legislative

process. Members cannot be expected to know the technical impact on every industry and interest group of each legislative provision. And large numbers of congressional staff have never worked anywhere but the Hill.

The question then becomes: where does education and information dissemination end and influence peddling begin? The short answer is: nobody knows.

The answer also lies in a PAC balance of power - there are always well-funded lobbies on both sides of a legislative issue. Members concerned about re-election rarely support unpopular bills in exchange for a campaign donation. The nature of opposition research in politics today exposes fatal flaws and assures accountability. The heat from exposure and lost faith at home is just not worth $5,000.

Banning or limiting PAC contributions is also driven by a desire to decrease the amount of money spent in elections. But campaign spending is not out of control. More money was spent to syndicate "Seinfeld" than we spend on a presidential election. Total direct campaign spending for all congressional races averages out to $3 per eligible voter. PAC spending adjusted for inflation decreased in the '94 cycle. And *all* 1993-1994 PAC contributions for *all* races would barely have covered Kevin Costner's production costs for "Waterworld."

More importantly, there is a very dangerous precedent set by acting on this hysterical desire to take money out of politics. The people in this country have a constitutional right to petition their government.

If we succumb to this misinformed, misguided hysteria, is the next step to take the media out of politics to stop all those obnoxious ads? To not let the press report on politics because we're sick of reading all the horse-race stories?

Money will remain in politics. Money must remain in politics. As issues become more complicated and technology more complex, even more money will be needed to ensure an open political system.

Limiting PACs will distort the political debate. Driving money out of the campaign gives a powerful advantage to candidates with powerful friends such as celebrities and unions.

Limiting PACs will similarly enhance the power of the media. When candidates cannot raise or spend the money needed to speak *directly* to the voters, political discourse will move away from a direct conversation between candidate and voter, and we will surrender to the institutional media's power to mediate political debate.

Katharine Graham of the *Washington Post* can editorialize in favor of certain candidates, or shape news coverage to reflect her philosophical perspective. Garry Trudeau can promote Bill Clinton by devoting his comic strip to bashing George Bush and Dan Quayle. Talk show host Rush Limbaugh can do the same in favor of his candidates.

I also caution all members, especially the freshmen, against passing reforms that further entrench the power of incumbents. When combined with the failure of term limits, you become vulnerable to charges of "now that you're here, you want to be sure to stay here."

Term limits are the best campaign finance reform of all.

In summary, I recommend the following:

1. Pass Term Limits;
2. Resist the temptation to ban or further restrict PACs;
3. At a minimum, index existing limits for inflation;
4. Tax deductibility for individual contributions;
5. Full disclosure.

In closing, I encourage the members of this committee to examine the evidence. The fervor to ban or limit PACs is based on impressions created by those who have the most to gain from their demise. Further restrictions on PACs will only increase the power of incumbents, millionaires, and the media, distort

political debate and infringe on First Amendment rights. Millions of Americans will have their right of free association trampled and see valuable and irreplaceable sources of information evaporate.

Historically, the most controversial First Amendment issues have centered on whether certain types of speech, such as commercial speech, licentious speech, and symbolic speech are protected by the amendment. What has been undisputed is that the First Amendment protects political speech.

Indeed, as the Supreme Court's *Buckley v. Valeo* decision made clear: "dollars are not stuffed in ballot boxes...the mediating factor that turns money into votes is speech...Advocacy cannot be proscribed because it's effective." Since a ban on PAC contributions affects the intensity and frequency of political speech, the measure will infringe on our First Amendment rights.

Additionally, no one would deny that journalists, editors, and pundits influence politics through their outlook and choice of topics. But why should they have the opportunity to be important figures in the political debate while other Americans are excluded because they choose a career other than the media? Indeed, without PACs, how are Americans with limited time and resources to offset the editorial impact of the national media? What is more, the notion that the government, through a ban on PAC giving, can exclude certain types of individuals or

organizations from contributing in a meaningful way to the political debate should alarm everyone who believes that "Congress shall make no law...abridging the freedom of speech."

Our Founders recognized that although there may be suboptimal outcomes in a free society, they pale in comparison with the outcomes associated with turning over to government jurisdiction judgments independent citizens should properly make themselves. As Thomas Jefferson put it: "I know of no safe depository of the ultimate powers of the society but the people themselves; and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them, but to inform them of their discretion by education."

Thank you for this opportunity to share my thoughts on this important matter with the Committee.

FRIDAY, OCTOBER 6, 1995

Campaign Finance—Deformed

By BRADLEY A. SMITH

Swayed by months of Beltway punditry, and spooked by Ross Perot's plan to launch a new political party, a growing number of congressional Republicans seem ready to chuck the difficult work of regulatory and budget reform in favor of the electoral placebo of campaign finance regulation.

In the House, Linda Smith (R., Wash.) has introduced legislation banning all contributions by political action committees (PACs) and by out-of-state voters, and limiting spending by political parties. In the Senate, Republicans John McCain of Arizona and Fred Thompson of Tennessee have teamed up with Wisconsin Democrat Russ Feingold to introduce a bill that, like Rep. Smith's, would ban all PACs and restrict party spending. The McCain-Thompson bill also would force television stations to grant free air time and reduced advertising rates to candidates who abide by "voluntary" spending limits; would add to reporting and disclosure requirements; and would strengthen the power of the Federal Elections Commission.

Erroneous Assumptions

Like most reform proposals of the past 25 years, both bills are based on several erroneous assumptions about the effects of money in politics, and would have detrimental effects on political equality and electoral competition.

For example, both bills seek to limit the amount spent on political campaigns, the Smith bill through the indirect strategy of destroying the contribution base, the McCain-Thompson measure through direct caps on spending. However, contrary to popular belief, spending on political campaigns is not "skyrocketing." Campaign spending is a minuscule 0.05% of the gross national product, almost exactly the same as in 1984, and less than in 1988. Spending by PACs, when adjusted for inflation, declined in 1993-94.

Nor is too much spent on political campaigns. Total direct campaign spending for all 1993-94 congressional races was about $600 million. This works out to about $3 per eligible voter over the entire two-year period, or the cost of about one movie rental. Speaking of movies, total 1993-94 PAC contributions, which make up just 30% of all contributions, were roughly equal to the amount spent to make Kevin Costner's action flick, "Waterworld."

Studies have shown that voter awareness, interest and knowledge increase as more money is spent on political campaigns. If anything, then, we probably spend too little on them.

The Smith and McCain-Thompson proposals also suffer from an erroneous belief about the power of money. Each, for example, seems to assume that money is the determinate factor in who wins election. Yet this is demonstrably untrue. Rep. Smith herself was outspent by more than three to one in her victorious 1994 congressional campaign.

In 1994, losing Democratic incumbents in House races spent, on average, one-third more than their Republican challengers. Yet, at the same time, controversial Republicans such as Oliver North and Michael Huffington lost to unpopular incumbents, despite outspending those incumbents by more than two to one. All that spending can do is make certain that voters learn of a candidate and the candidate's message. It cannot guarantee that voters will like what they hear.

Nor do campaign contributions affect many votes in the legislature. Rep. Smith likes to argue that the House failed to cut tobacco subsidies this year because of the influence of tobacco company money. But how, then, does she explain the failure of Congress to eliminate the Appalachian Regional Commission? This program, like tobacco subsidies, benefits a narrow geographic constituency, but, unlike the tobacco industry, has no PAC, and, so far as anyone can tell, no discernible purpose.

The reason is simple: The primary factors affecting legislative voting records are not money, but ideology, party agenda and public opinion. Given the popular belief to the contrary, one cannot state this too strongly: Every systematic study conducted of legislative voting behavior has concluded that campaign contributions have little or no effect on that behavior.

Many Republicans seem prepared to vote for campaign "reform" legislation, seeing it as relatively harmless re-election protection.

Campaign contributions rarely determine votes for several reasons: 1) most politicians have strong personal beliefs on issues (that is why they are attracted to politics in the first place); 2) on almost every issue, there are well-financed lobbies on both sides (the press rarely focuses on all the battles the "special interests" lose); and 3) legislators ultimately hold their seats through votes, not dollars. An incumbent concerned with re-election will not support an unpopular bill in exchange for a campaign donation that, at best, can be used to try to win back a disgruntled constituency. Conversely, where a PAC represents a large number of voters in the legislator's constituency, or holds a popular position, the incumbent will probably vote for the bill regardless of any campaign contribution.

The National Rifle Association, for example, has a million-dollar PAC, but it also has more than three million voting members who care intensely, at times even exclusively, about gun issues. In some congressional races, it is estimated that the NRA can swing up to 5% of the vote. The NRA does not just outspend gun control advocates—it outvotes them.

Despite the flawed assumptions of the campaign finance reform movement, many Republicans seem prepared to vote for "reform" legislation, seeing it as relatively harmless re-election protection. Unfortunately, that is not the case.

Although money is not determinative of election results, it does matter. Incumbents begin a campaign with significant advantages in name recognition, media access, and government-paid staff support and mailings. However, precisely because they start a campaign with these advantages, added spending is of relatively little use to incumbents. Challengers, however, must spend money on campaigning to get their names and messages out to voters. Repeated empirical studies show a significant link between challenger spending and performance, but no connection between incumbent spending and performance. What is important is not who outspends whom, but that the challenger spends enough to stimulate voter interest in the race.

Thus, money is an equalizer in the democratic process, loosening the hold of incumbents and making the legislature more responsive to popular opinion. Efforts to cap spending help entrench incumbents and so foster public frustration with the system. This problem is exacerbated by the type of contribution limitations included in both the Smith and McCain-Thompson bills. Forcing candidates to raise money in small amounts benefits those candidates who have an existing donor base and fund-raising structure—incumbents. And it makes it harder for challengers, who usually start campaigning later than incumbents, to raise the money they need within the necessary time frame. It seems ironic that Republicans, having raised the electorate's ire by failing to push term limits through the House, now intend to sucker the voters into supporting campaign spending and contribution limits that will make it more difficult for challengers to defeat incumbents.

Nor do contribution and spending limits promote equality within the electoral system. Instead, by attempting to drive money from the campaign playing field, they merely give an unfair advantage to those who control assets other than money.

Hollywood Celebrities

For example, when candidates cannot raise or spend the money needed to speak directly to voters, the influence of the institutional news media is increased. Similarly, the influence of those with access to the news media, such as Hollywood celebrities or, once again, incumbent lawmakers, is increased. Those who control large blocks of manpower, or whose personal skills are useful in politics, will also benefit, at the expense of those whose contribution comes in the form of cash. For example, campaign finance reform will tend to increase the influence of big labor relative to small business.

Finally, both the Smith and McCain-Thompson bills would toughen up enforcement and reporting requirements. This will benefit Beltway insiders, who have regulatory expertise and know-how, at the expense of true grass-roots activists, who can't afford to contact a lawyer every time they seek to engage in political activity.

The result of campaign finance reform legislation will be to further entrench incumbents in office; increase the power of the media and other select elites; and reduce grassroots political activity. Republicans would do well to consider such consequences before rushing off after the Common Cause vote.

Mr. Smith teaches election law at Capital University Law School in Columbus, Ohio.

THE CATO HANDBOOK FOR CONGRESS

104th Congress

Campaign Finance Reform

Most efforts to reform campaign financing are really attempts at incumbent protection. Those reforms would limit contributions and try to circumvent the Supreme Court ruling in *Buckley v. Valeo* (1975)—that limitations on campaign expenditures are unconstitutional—by "taxing" expenditures above a certain level. But all such efforts have a chilling effect on political discourse.

Despite claims by groups such as Common Cause and the League of Women Voters that we are spending "obscene" amounts of money on campaigns, it could be argued that we are not spending enough. As George Will has pointed out, Americans spend more each year on yogurt than they do on political campaigns. Indeed, we typically spend about $1 per potential voter for Congress and a little over $2 in the presidential campaign.

Contribution limitations in the Federal Election Campaign Act of 1974 should be repealed. With full disclosure there is no reason why large contributions should be disallowed. Although the proponents of limits argue that the government thereby protects the American people from the evil designs of the wealthy, the reality is that large infusions of funds are more likely to protect the people from the limited options of the political status quo.

For instance, whether one agreed or disagreed with Ross Perot, there can be little doubt that his self-financed campaign for the presidency in 1992 enhanced the democratic process. It was only through a quirk in the *Buckley* decision that contributions to one's own campaign are treated as an expenditure, and thus not subject to limits. Had Perot been able to give his millions to another, perhaps more qualified, candidate, he might have been hard-pressed to justify his own candidacy.

At a minimum, Congress should retroactively index the 1974 contribution limit of $1,000 for federal campaigns. That would raise the limit to $3,100 in 1995, making it easier to challenge incumbents and inducing a larger number of Americans to seek federal office.

The CHAIRMAN. Mr. Stockmeyer.

STATEMENT OF STEVEN F. STOCKMEYER

Mr. STOCKMEYER. Thank you, Mr. Chairman. Good afternoon. Thank you for this opportunity to testify.

This is the sixth time my group has been involved in testimony before Congress on this issue but it is the only time that two days of hearings have been devoted to PACs, with the diversity and balance that has been brought to this. And we appreciate that very much, and we think you are doing a real public service by examining this issue fully.

Authorized fully in the 1976 amendments to the Federal Election Campaign Act, PACs today are the virtual embodiment of American pluralism and among the finest examples of Americans exercising their right to participate in the Nation's political process.

Currently, over 4,000 PACs represent almost as many different interests, covering the total spectrum of citizen, economic issue and philosophical spectrum. PACs have educated, motivated and stimulated a rough estimated 12 million Americans in the political process voluntarily, and many of them for the very first time.

In the last 20 years, PACs have become the premier way for Americans of average means to band together and support the election of candidates that they believe have their best interests at heart. Through PACs like-minded citizens can have more impact, be more involved in campaigns than they could acting alone. And far more than mere fund-raising and dispensing operations, PACs promote greater citizen participation in all elements of government through publications, seminars, vote drives and the like.

What is more, PACs are one of the few reforms of the 1970s, if not the only reform which has worked as intended and worked very well. The PAC mechanism took what was under the table before and without limit brought it into the sunshine under tight limits and regulation.

Since their creation, there have been no significant abuses attributable to PACs. The sanctioning of PACs thus helped clean up a major part of the old discredited system of campaign finance and continues to do so to this very day.

Because of all these positive achievements, we submit PACs are a very healthy part of the current system and should be considered a model reform which could be applied to other parts of the system. As long as we have private funding of campaigns, something that is certainly more desirable than taxpayer funding and will always be guaranteed by the Constitution there never will be a cleaner or better form of involvement than political action Committees.

Unfortunately, however, PACs have become the whipping boy of the campaign finance debate. For 20 years professional reform groups have engaged in McCarthy-like attacks on PACs and this narrow view has been repeated by an unquestioning media. A recent study showed that 98.4 percent of media coverage of PACs since 1980 is negative, a higher negative percentage than those for Oklahoma City bomber Timothy McVay or retired Los Angeles police detective Mark Fuhrman. These unprovoked attacks have created a false impression of corruption through innuendo, guilt by association and constant repetition.

As the most fully disclosed part of the campaign system, PACs are obviously and easy targets for this kind of attack. These attempts to smear PACs and the recipients of their support I believe are a part of a larger strategy to discredit all forms of private financing in order to build a case for forcing taxpayers to foot the bill.

We are concerned that these tactics have been so successful in creating a political imperative, although I believe a phony one, that Members of the House have felt it necessary to introduce a record number of anti-PAC bills this year. We would urge that this Committee pause before getting caught up in this hysteria to consider the positive role of PACs and the very negative consequences of these proposals.

Campaign finance has always been uniquely plagued by unintended consequences. And here are some of the things that would happen if we ban PACs or significantly reduce them: Broad citizen participation in funding campaigns would be reduced and the vital role that PACs have played to encourage involvement beyond funding would be lost.

Number two, candidates would have to spend even more time raising funds than they do today, just the reverse of what people would like to accomplish.

Three, an even greater advantage for and reliance on wealthy individuals would develop, and small minority groups would be shut down, leading to domination by the larger more well-heeled interests.

Four, campaign money would be less accountable as interests are forced to channel their support in largely undisclosed and unlimited ways. Voter communication and education would also suffer.

We think we should also consider the constitutional grounds which others will go into about the illegality under the Constitution of bank PACs. If it is the appearance of influence peddling that Congress seeks to correct, there are any number of remedial approaches the Committee should consider shy of trampling on the rights of average Americans to associate for political expression.

Finally, we submit that there is almost nothing about the appearance problems of the current system that could not be solved by the conduct of the Members of Congress themselves. There is nothing that forces our representatives to raise more than they need for their campaigns, to raise funds all year-round, or to solicit or accept funds from sources with business before their Committees.

If voluntary restraint is not sufficient, then the House should pass mandatory restraints as a part of its ethics rules, as you are doing on gifts today. If the appearance problems are as severe as some suggest, then each Member needs to be part of the solution by examining and restricting demand.

NABPAC believes there is a historic opportunity here to pass some constructive reforms, whether it is through the immediate work of this Committee or the broader agenda suggested by the Speaker in his Blue Ribbon Commission.

NABPAC supports both efforts. We think the challenge is restoring public confidence and increasing participation in the system while very definitely protecting precious constitutional guarantees.

The CHAIRMAN. Thank you very much, Mr. Stockmeyer.

[The statement of Mr. Stockmeyer follows:]

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Steven F. Stockmeyer is the head of Stockmeyer & Company, a government relations and public affairs firm, providing lobbying and consulting services.

Mr. Stockmeyer has 30 years of government and politically related experience at both the federal and state levels. Immediately prior to opening his own consulting company, he was a Senior Vice President for Government Relations for the National Association of Broadcasters and later a partner in the Wexler Group.

Mr. Stockmeyer began his Congressional experience in 1967 as head of staff for a Congressman and completed it with six years as Executive Director of the National Republican Congressional Committee (NRCC) -- the campaign arm for House Republicans. During his tenure at the NRCC (1975-1981), he oversaw the election of 110 new Republicans to the House. From the NRCC on, he has worked closely with Speaker Newt Gingrich.

Mr. Stockmeyer served as Assistant Director for Congressional Affairs at the Environmental Protection Agency (1971-1975). He is a past director of the Congressional Institute, Inc. -- the organization that stages the annual House Republican retreat. Currently, he serves on the board of the Campaign Management Institute at the American University. In his home state of Michigan, he was the head of the minority staff in the state House of Representatives. He is a graduate of the University of Michigan.

He has been a consultant to the National Association of Business Political Action Committees since 1986, and serves as executive vice president for the organization. Other current clients include the American Medical Association, Dykema-Gossett law firm, Manville Corporation, the Money Store, the Natural Gas Vehicle Coalition, the Pizza Hut Franchisee Association, Society of Asset Allocators and Market Timers, Springs Industries, Inc. and WMX.

Mr. Stockmeyer is a frequent lecturer and commentator on government relations, politics and campaign finance.

June, 1995

The CHAIRMAN. As I introduce our next witness, Mr. Gora, truth in packaging requires me to reveal that I have just learned that he was a participant in the *Buckley* v. *Valeo* decision and somewhat shaped campaign finance in this country.

STATEMENT OF JOEL GORA

Mr. GORA. Thank you very much, Mr. Chairman.

I am Joel Gora, Associate Dean and Professor of Law at Brooklyn Law School, and I am privileged to appear before you today on behalf of the American Civil Liberties Union. I do bear some small responsibility for the fact we are all here this afternoon and I couldn't be more proud, because *Buckley* v. *Valeo* is a landmark of political freedom. The only problem is, the Court didn't go quite far enough.

In that case the lawyers for the plaintiffs contended that the campaign reforms of 1974 were anything but, that they were bad constitutional law because they cut to the core of the First Amendment, and they were bad political reform because they would magnify the power of incumbency, increase dependence on monied interests and stifle political opportunity. And I am afraid we were right.

In *Buckley* the Court ruled that any government restriction of political funding is a regulation of political speech subject to the strictest scrutiny. The Court further ruled that limitations on expenditures flatly violate the First Amendment.

Nothing can justify the government telling the people how much they can spend to promote their candidacies or their causes; nothing. But the Court upheld contribution limits of $1,000 for individuals but $5,000 for political Committees based upon the concern with corruption, and that ruling has insured the two decades of frustration and unfairness that have ensued.

With no limits on spending or on wealthy candidates, with independent Committees free to speak on politics, with issue groups and the media free to speak on politics without limit, and with less well-funded candidates hampered in their ability to raise money from family and friends, the stage was set for the two factors that have dominated politics for the last 20 years, the advantages of incumbency and the dependency on PACs.

The ACLU has long suggested that the way to solve these problems is to expand political participation by providing public financing for all legally qualified candidates and not to restrict contributions and expenditures which help groups and individuals communicate their messages.

And that brings me to PACs. PACs, of course, have become a political dirty word, but PACs reflect the broad spectrum of groups that enrich our political life. Proposals to restrict or repeal PAC activity, I think are both unconstitutional and unwise.

You have heard from Mr. Crane and Mr. Stockmeyer about the broad overview of the role of PACs, but I think nothing was more eloquent than Congressman Lewis' testimony this morning when he indicated the two things about PACs that the ACLU has tried to say: Number one, they do embody political speech and association; and number two, they are particularly important, many of them, to sparking new candidacies from divergent members of our

community, new and different voices and not the ones that are traditionally heard.

So efforts to limit or ban PAC contributions, to restrict the amount of money that candidates can spend based on PAC contributions, to ban out-of-State PAC contributions all violate these principles of political freedom, of First Amendment rights and of political reform.

There is a way out of this morass that the campaign reforms of two decades ago have caused. The way is the path that the Framers of the First Amendment charted for us a long time ago. The First Amendment answer to bad or corrupt or excessive or overinflated speech is more speech, publicly funded, privately funded, more speech, rather than enforced silence coerced by law.

And the elements of this time-honored approach under the First Amendment are clear: Number one, raise individual contributions. Let Aunt Wanda write an even bigger check to Representative White. That alone would reduce the reliance on PACs and increase political freedom. Give a modest tax credit for political contributions. I think that was once in our law. I took it a time or two, and it was a pleasure to contribute and get a tax credit at the same time.

Third, public and effective disclosure of large contributions leads to the democratic remedy for special interests. Let the people decide who is too cozy with those special interests.

And finally, provide subsidies and benefits, perhaps the free frank, reduced mail rates, but do it on an evenhanded basis, not just for established candidates, not just for Republicans and Democrats.

I am intrigued by the idea of a bipartisan Blue Ribbon Commission that will look into these difficult issues. I notice you are supposed to have eight Republicans and eight Democrats. Where is the Socialist Workers Party representative, let alone the Libertarian Party, or all of the other third and independent parties that enrich political life in America and who have been sources for the new ideas that we have come to accept as commonplace.

Remember that leveling the playing field means that challengers will have a better chance to defeat incumbents. No one is born an incumbent. One of the collateral benefits of making it easier to raise money is that candidates will be able to spend less time raising money and more time raising issues.

The problem is the strategies I have outlined which have one thing in common, expanding political opportunity without limiting it, have really never been tried. What we said in the Supreme Court in *Buckley* 20 years ago was, allow unlimited expenditures, unlimited contributions and have full disclosure so that the people can determine who is spending too much and who is giving too much. That approach was not permitted by the result in the *Buckley* case but it is the approach that is most consistent with the one part of the Constitution that speaks specifically to the issue of

Members of Congress writing the rules by which their own reelection futures are determined. And the part of the Constitution that speaks specifically to that was shared a few moments ago, and the first five words of it are: "Congress shall make no law."

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

[The statement of Mr. Gora follows:]

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STATEMENT OF JOEL M. GORA

Professor of Law

Brooklyn Law School

On Behalf Of

THE AMERICAN CIVIL LIBERTIES UNION

ON CAMPAIGN FINANCE REFORM PROPOSALS

Before the

COMMITTEE ON HOUSE OVERSIGHT

Of The

UNITED STATES HOUSE OF REPRESENTATIVES

November 16, 1995

Nadine Strossen *President* Ira Glasser *Executive Director* Kenneth B. Clark *Chair, National Advisory Council* Richard Zacks *Treasurer*
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My name is Joel M. Gora. I appreciate the opportunity to testify before you today on behalf of the American Civil Liberties Union (ACLU). The ACLU is a nation-wide, non-partisan organization of more than 275,000 members devoted to protecting the principles of freedom set forth in the Bill of Rights and the Constitution. I will focus my remarks on the civil liberties implications of general campaign finance reform concepts and the implications of these proposals on First Amendment rights. I would request permission to revise and extend my remarks before the record of these hearings is closed.

By way of introduction, I am Associate Dean and Professor of Law at Brooklyn Law School, where I teach Constitutional Law. I am also a General Counsel of the New York Civil Liberties Union and a former Associate Legal Director of the American Civil Liberties Union. In that capacity, I have been actively involved since 1972 in studying and litigating the constitutionality and practicality of campaign finance measures. Actually, my personal experience with the problems of campaign finance goes back ten years earlier, to 1962, when I was a college intern in charge of Dollars for Democrats in Southern California, the year Governor Brown, the Elder, upset Richard Nixon for the governorship. I can tell you I learned then that raising money in small chunks is a challenge.

Twenty years ago, last week, I had the honor of being one of the ACLU attorneys who argued for the plaintiffs before the Supreme Court in the landmark case of Buckley v. Valeo, 424 U.S. 1 (1976). We maintained that the Federal Election Campaign Act of 1974 was bad constitutional law and bad political reform. And, sadly, we were proven to be right on both counts.

The Act was bad constitutional law, we said, because it cut to the heart of the First Amendment's protection of political freedom. The core, the very essence of the First Amendment

is the right of the people to speak, to discuss, to publish, to organize, to join together with others on issues of political and public concern. Indeed, one of the geniuses of American democracy is precisely its constitutional protection of the ability of people to join together to form groups and organizations and societies and associations and unions and corporations to articulate and advocate their interests. And this is particularly true in connection with political election campaigns when issues, arguments, candidates and causes swirl together in the public arena. Yet the 1974 Act imposed sweeping and Draconian restraints on the ability of citizens and groups, candidates and committees, parties and partisans to use their resources, to make political contributions and expenditures to support and embody their freedom of speech and association.

And the Act was bad political reform because it would exacerbate the inequality of political opportunity, it would enhance corruption and dependence upon money and moneyed interests in politics and it would magnify the power of incumbency as the single most significant factor in politics. Limits on giving and spending make it harder for those subject to the restraints to raise funds and easier for those outside the restraints to bring their resources to bear on politics. Limiting individual contributions to $1,000 per candidate while allowing PACs, made legitimate by the "reforms," to contribute $5,000 per candidate would make it harder to raise money from individuals and make candidates more dependent on PACs. And PACs, often representing entrenched interests, would be more likely, though far from inevitably, to prefer incumbents to challengers as beneficiaries of their largesse. Should this have surprised anyone? The Act would not, we insisted, expand political access and opportunity; it would stifle it.

What you had, we warned, were unconstitutional laws, enacted by Congress, approved by the President, enforced by an agency, the Federal Election Commission, beholden to each, and

designed to restrain the speech and association of those who would criticize or challenge or oppose the elected establishment. Talk about the powers of incumbency. That's why we called the Act an "Incumbents Protection Act."

In a decision with deep regard for these concerns, the Supreme Court held that any government regulation of political funding -- of giving and spending, of contributions and expenditures -- is regulation of political speech and subject to the strictest constitutional scrutiny. The Court found that the Act's limitations on political expenditures - by committees, campaigns and candidates, no matter how wealthy -- were flatly violative of the First Amendment. Nothing can justify the government telling the people -- as individuals or in groups - how much they could spend to promote their candidacies or causes. Not in this country. Nothing "In the free society ordained by our Constitution it is not the government, but the people -- individually as citizens and candidates and collectively as associations and political committees -- who must retain control over the quantity and range of debate on public issues in a political campaign."

But, unfortunately, moved by concerns with corruption, the Court upheld the contribution limits of $1,000 for individuals and $5,000 for political committees. Instantly, the Court's ruling guaranteed the twenty years of frustration and unfairness that have ensued. With overall spending limits voided as violative of the core essence of the First Amendment, with limits on how much wealthy candidates could spend on their own campaigns voided for the same reason, with independent campaign committees, issues groups and the press free to use their resources to comment on candidates and causes without limit, yet with less well-heeled candidates sharply restricted in their ability to raise money from family, friends and other contributors, the stage was set to make two factors dominant: the advantages of incumbency and the dependency on PACs.

The advantages of incumbency meant that it is easier for Members of Congress, using public resources, to communicate with their constituents (read voters), while challengers have to spend hard-contributed dollars to do the same

The dependency on PACs came from the fact that severe limitations on the amounts of money that individuals can contribute directly to candidates, plus the markedly increased cost of campaigning, made PAC contributions a much more important source of campaign finance than ever before And you kept the individual contribution limit at $1,000, which, adjusted for inflation, is probably worth about $400 in real dollars today That is why for twenty years we had PAC-influenced elections in the Congress (matched by "soft money"- dominated Presidential elections), and incumbents dominated the outcomes.

For twenty years now, the ACLU has suggested the way out of these various disparities and dilemmas created by the restrictions of the FECA and the Buckley Court's only partial invalidation of them ACLU Policy states as follows:

> "Limitation on contributions or expenditures made by individuals or organizations for the purpose of advocating causes or candidates in the public forum impinge directly on freedom of speech and association Their implementation poses serious dangers to the First Amendment. They should be opposed in candidate as well as referenda elections.
>
> "The ACLU believes that any restrictions imposed upon contributions, whether from the candidate or from others to a candidates political campaign are an unconstitutional restriction upon the contributor's freedom of speech." And that means PACs too.

"PACs" of course have become a political dirty word. We tend to think of the Realtors' PAC or the Trial Lawyers' PAC or the Medical PAC or the Tobacco PAC. But the ACLU's first encounter with a "PAC" was defending a handful of old left-wingers whom the government claimed were an illegal "political committee." One of the old timers was a rich old left-winger, and they ran a two-page advertisement in The New York Times, urging, well before it became fashionable, the impeachment of President (and Presidential re-election candidate) Richard Nixon for bombing Cambodia and praising those six or seven hardy Members of Congress who had voted against the bombing. In the summer of 1972. Before the ink was dry on the brand new Campaign Act of 1971. the U.S. Department of Justice -- at the urging, I might add, of Common Cause -- used that "campaign reform" law to haul the little group into court, label them a "political committee" and threaten them with injunctions and fines unless they complied with the law. All for publicly speaking their minds on a key political issue of the day We got an early wake-up call on what "campaign reform" really meant.

In fact, one of the persistent problems we have had to face has been the chronic and impermissible use of campaign reform laws to snare non-partisan issue-oriented groups within their net. Groups as disparate as the ACLU, NOW, the Chamber of Commerce and Right-to-Life committees have had to defend themselves against charges that their issue advocacy rendered them "political committees" subject to all of the FECA's restrictions, requirements and prohibitions Indeed, only last month, the Second Circuit once again had to deal with an FEC enforcement suit against an anti-war group that criticized President Reagan's foreign policy during the 1984 Presidential election season. Fortunately, courts generally have been vigilant to rule out-of-bounds

most such attempts to sweep issue-oriented groups within the restrictive confines of the FECA, but the chilling effect of such efforts remains.

And cases involving issue groups remind us that true PACs, i.e. those that give or spend money to or on behalf of federal candidates, come in all sizes and shapes. They can be purely ideological or primarily self-interested, or both simultaneously. And they inevitably span the entire political spectrum.

Of course, the first political action committees were labor PACs, like the AFL-CIO's Committee on Political Education (COPE), providing funds, resources and manpower to assist political candidates, usually Democratic. Corporate PACs came on line in the early 1970's. And both corporate and labor PACs were legitimized and empowered by the "reforms" of the FECA, and they and all other PACs were allowed to contribute five times as much money to federal candidates as individuals could. All of this turned the Federal Election Campaign Act into the PAC Magna Carta Act.

We think all that PAC activity is simply a reflection of the myriad groups and associations that make up so much of our political life. And so many of them are an effective way for individuals to maximize their political voice by giving to the PAC of their choice. While many PAC contributors and supporters probably do fit the stereotype of the glad-handing, Washington-based influence peddler, millions of PAC supporters contribute less than $50 and expect nothing from the candidates in return. Indeed, for millions of Americans, writing a check to the candidate, committee or cause of their choice is a fundamental political act, second in importance and meaning only to voting. A lot of PAC representatives wear Gucci loafers, but others get their loafers from L.L. Bean.

Remember, as you consider various proposals to restrict, restrain or repeal PACs, that such limitations would suppress the great variety of political activity those PACs embody. Most of those proposals are doomed to defeat as unconstitutional. All of them are doomed to defeat as futile.

1. Banning PAC Contributions.

There is not a word in Buckley v. Valeo or any of the other relevant cases on regulation of PACs which suggests that the Court would uphold a total ban on PAC contributions to federal candidates. Political contributions are fundamentally protected by the First Amendment, and the limit on the amount was upheld in Buckley only on grounds of the corruption potential of excessively large contributions to candidates. PACs do amplify the political voices of their contributors and supporters across the entire spectrum of American politics, and the Court is not likely to let you still all those voices.

Moreover, banning PAC contributions is futile as a reform. You won't drive PACs from the political temple, because all the PAC money that can't be contributed will go instead into an upsurge of independent expenditure campaigns for favored or against disfavored candidates--and the Supreme Court made it clear that independent PAC expenditures are at the core of the First Amendment and totally off limits to restraint. Federal Election Commission v. National Conservative Political Action Committee, 470 U.S. 480 (1985). It may be a little less tidy to run an independent campaign, than to write a check to your favored candidate, but PACs will adapt. They're good at that. And little will have been gained -- except making it harder for candidates to raise money since you will have deprived them of a major source of resources, without providing any alternatives. And candidates of moderate means will be particularly vulnerable to campaigns by personally wealthy opponents.

2. Reducing PAC Contributions.

This might be a closer case constitutionally, although the Court threw out a $250 limit on contributions to a referendum campaign committee. See Committee Against Rent Control v. Berkeley, 454 U.S. 290 (1981). And Meyer v. Grant, 486 U.S. 414 (1988) held that people had a right to spend money to hire others to gather election petition signatures, strongly reaffirming the right of a person to use his or her resources to enlist others to advance their causes. But, again, apart from the First Amendment issues, why would you want to reduce the ability of candidates to raise money without providing alternatives?

3. Receiving PAC Contributions

Other proposals would place a limit on how much PAC money a candidate could receive, either as a percentage of the overall campaign budget, or in a fixed amount, like $200,000. But the corruption concern becomes very attenuated, and the rationale for the overall limit seems weak against First Amendment standards. Once the limit is reached, candidates and PACs, in effect, would be banned totally from political interaction with one another, which would seem as constitutionally vulnerable as a total ban. And what of new groups that wanted to support a candidate after the candidate's PAC quota had been reached, especially if the campaign turns on an issue -- abortion for example -- of great moment to that group?

Finally, this starts to look like a back-door effort to limit overall campaign expenditures, in violation of Buckley's core principles.

4. Transporting Political Contributions Across a State Line.

Somehow, I have always found particularly troublesome those proposals to limit the amount of out-of-State or out-of-District contributions to candidates. Obviously, this is a back-door effort

to limit PAC contributions to candidates, since so many PAC contributors come from States different from the candidates their PACs contribute to, as do the PACs themselves. Beyond that, any potential justification for this ban seems unlikely to pass muster. Analogizing this to a voter's residency requirement falls short after McIntyre v. Ohio Board of Elections, -- U.S. -- (1995) which just held that restrictions on political speech about candidates or referenda cannot be upheld on the grounds that they are merely ballot or electoral regulations, because, in reality, they are free speech restrictions.

Moreover, in-state limitations could deprive particular kinds of underfinanced, insurgent candidates of the kind of out-of-state support they need. Just as much of the civil rights movement was funded by contributors and supporters from other parts of the nation, so, too, are many new and struggling candidates supported by interests beyond their districts. This proposal would severely harm such candidacies.

Finally, Congress is our **national** legislature, and although its representatives come and are elected from separate districts, the issues you deal with are, by definition, national issues that transcend district lines and may be of concern to citizens all over the nation. When such issues become central in certain campaigns, people and groups from all over the country should be entitled to have their views and voices heard on those issues. Any other approach takes a disturbingly insular and isolated view of the obligations of a Member of Congress.

After twenty years, it is time, finally, to admit that limits on political funding do not work. The Supreme Court won't let you limit overall campaign expenditures, independent expenditures, or unlimited use of personal wealth by candidates – and rightly so. In the face of that, continuing to limit individual contributions to $1,000, while permitting PACs to contribute five times that

amount, will insure that underfinanced candidates will be vulnerable to wealthy or well-funded opponents and dependent on PAC contributions. Limits on funding will also ensure that underfunded candidates will lack the resources to respond to powerful issue groups or media voices that campaign against them totally outside the scope of the campaign laws and controls.

But constitutional imperative and political common sense can combine to help find a way out of the morass that campaign finance laws have caused.

The answer is to maximize political speech and activity, not by limiting those groups and individuals whose resources permit them to engage in speech and association, but by improving the ability of those who lack such resources to participate in the political process. That approach harmonizes free speech and greater political participation without sacrificing the former in an illusory quest for the latter.

The elements of such an approach are not a secret and have been proposed for some time.

First, individual contribution limits should be substantially raised, so that candidates can more easily raise funds for their campaigns and be less reliant on PAC sources of funding and support.

Second, you might consider giving modest tax credits of up to $500 for private political contributions. If one million citizens gave that amount, it would have paid for most of last year's Congressional campaigns, without a penny of direct federal funding or large contributions. That would be a more straightforward kind of public financing of politics--through private contributions and choices.

Third, the public presently has access to effective and timely disclosure of large contributions. That is the most appropriate and democratic remedy to deal with problems of undue

access and influence on elected officials. Let the candidates decide how much fund-raising is enough. Let the voters decide how much is too much. As Justice Louis Brandeis once said, "Sunlight is the best disinfectant." The disinfectant of disclosure is the best antidote to the potential of corruption.

Similarly, candidates could voluntarily limit their overall expenditures or forswear reliance on PAC contributions -- as many have done -- and then challenge their opponents to do likewise. In this era where big spenders and PAC contributors seem to be held in low esteem, the political capital created with the voters by this voluntary approach might yield successful electoral results.

Finally, provide a variety of public subsidies and resources available to facilitate candidacy and reduce the dependence on large private contributions and special interests. But do so with no strings attached. Do not condition the receipt of political subsidies on the surrender of First Amendment rights. The First Amendment is not negotiable.

And make such benefits available to all candidates of all qualified political parties, and not just the Democrats and the Republicans.

Indeed, the ACLU recognizes that the escalating cost of campaigns for public office tends to restrict the breadth and freedom of political expression in America. More and more, money, not political support, determines who runs for office. Many candidates fail because they cannot attract the funds needed to finance a viable campaign. And that loss deprives the public of the full range of public debate.

For that reason, the ACLU supports public financing of political campaigns as a substantial remedy for this problem and one which would advance a number of positive free speech values. It

would facilitate candidacy and significantly broaden the spectrum of campaign debate. Public financing can also reduce the dependency of candidates upon private and PAC contributions.

But public financing should follow these principles:

1 It should be equally available in equal amounts to all legally qualified candidates for office who have demonstrated an objective measure of existing political support;

2 It should provide a floor for campaign expenditures in an amount sufficient to insure a reasonable degree of public debate on campaign issues;

3 It should avoid inequitable government regulation and discretion in the distribution of campaign funds; and

4 It should not be used as leverage to impose limitations otherwise impermissible, i.e. "unconstitutional conditions."

True adherence to these principles would lead to the following reforms.

Make public seed money or matching funds available, without burdensome ceilings and restrictions.

Provide the free frank to all legally qualified federal candidates, or at least to all serious qualified federal candidates. As it is now, a challenger could exhaust much of his campaign budget and not even cover or counter a Member's postage bill. Changing that alone would help level the playing field between you and your underfunded and outgunned challengers. I always thought that one damning fact in Buckley which helped move the Court to knock out spending limits, was that the overall limit Congress set for the average House campaign in the 1974 law, $70,000 -- seems ludicrously low doesn't it -- was less than the value of the frank to the average Member that year.

You could change that in a minute. Remember what it was like to be a challenger. No one is born an incumbent.

Finally, although it may raise serious First Amendment difficulty, you could give candidates a certain amount of free television time, without strings attached, to use to get their message across.

All of these approaches would have the collateral benefit of allowing candidates to spend less time raising money and more time raising issues.

And then there is one last reform: Rely on the good judgment of the American people to cut through the big spending and the big giving and figure out the candidate or cause worthy of their support. After all, the party that now governs the Congress won last year's Congressional elections despite big spending by the incumbent party that governs no more. Incumbency and PACs are powerful political factors, but the judgment of the American people is the factor that counts the most.

All these strategies have one thing in common: they seek to expand political opportunity and political speech without limiting it. They seek to provide floors and not ceilings. But that's not what most incumbents want from campaign finance laws. Most in Congress want limits, limits, limits. Most incumbents have never met a campaign finance limit they didn't like. The less everyone else can give or spend, the better off incumbents are.

The time has come to admit that this is the wrong approach. As between limiting political speech and expanding it, the First Amendment has already made that choice for us. And that choice mandates, in the words of Justice Louis Brandeis, more speech -- publicly and privately funded -- rather than "enforced silence coerced by law."

In this regard, I would note the special dangers that are raised when Congress writes campaign finance laws. One highly regarded scholar, Cass Sunstein, has put the matter boldly as follows:

> "Although I have criticized what the Court said in Buckley, considerable judicial suspicion of campaign finance limits is justified by a simple point: Congressional support for such limits is especially likely to reflect congressional self-dealing. Any system of campaign fiance limits raises the special specter of governmental efforts to promote the interests of existing legislators. Indeed, it is hard to imagine other kinds of legislation posing similarly severe risks."

Professor Sunstein then lists seven reasons for particular concern.

1. Campaign finance limits may entrench incumbents.
2. Limits on individual contributions will produce more and more influential PACs.
3. Limits on "hard" money encourage a shift to "soft money."
4. Limits on PACs lead to an increase in individual expenditures.
5. Limits on PACs can hurt organized labor and minority candidates.
6. Limits on PACs may increase secret gifts.
7. Limits on both PACs and contributions could hinder campaign activity.

To that list, I would add one more reason for concern:

8. "Congress shall make no law . . . abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." Thank you.

The CHAIRMAN. Mr. Driesler.

STATEMENT OF STEVE DRIESLER

Mr. DRIESLER. My name is Steve Driesler. I am senior Vice President of Government Affairs for the National Association of Realtors. I am here on behalf of the 750,000 Realtors nationwide who reside in literally every State, every congressional district, every town, village and hamlet of this great country.

As part of my duties, I help administer the Realtors Political Action Committee, which is one of the largest and most successful political action Committees in the country.

And I am here today to talk about citizenship and what PACs do, and what our PAC in particular does to enhance and expand citizens and citizenship and opportunity to participate in this great political system of ours.

I have heard the testimony today and you hear political pundits and observers decry the lack of citizen involvement, the lack of political participation. I think all of us were taught from our very earliest days in Civics 101 that political activity, political involvement is a highest responsibility of a citizen and yet by almost any measure the level of political involvement in this country is at historical all-time lows.

Compared to most other industrial nations in the world, we rank low in all indices, such as voting participation, simply going to the polls on election day to help determine who is going to lead us at a local, State or national level. We have a citizenship that is woefully inadequately informed about their public officials and about the great issues of the day.

Fewer than a third of most citizens can name their Members of Congress, much less tell you how they vote on key issues that affect them, their business, their personal lives. We decry the lack of involvement of volunteers that come to work in political campaigns. We talk about that campaigns have become too much focused on personalities and not enough focused on discussion of issues.

We have heard even here today people talking about the perception of undue influence that large contributors have in the political system of the so-called "fat cats" who can give of their own wealth either to finance their own campaigns or to support other candidates.

Let me tell you how the Realtors Political Action Committee helps address and eliminate many of these problems that are affecting us today. Let's talk about citizen involvement.

Every year, our PAC involves over 140,000 Realtors nationwide in getting them to write a check; a small check. Our average contribution during the last election cycle was $26.76 cents, less than $28 per member—not fat cats, not big contributors—less than $28 per member.

We have a special program called "Opportunity Race Programs" designed to get our members actively involved in candidates on behalf of candidates of their choice. We do this by informing them how these candidates stand on the key issues of the day of importance to realtors and homeowners and private property rights.

In the last election cycle in 1994, these opportunity races involved over 22 percent of our membership, approximately 150,000 members in 66 congressional districts, got these people involved in political campaigns that they would not have otherwise, in most instances, been involved in had it not been for our PAC involvement.

Recently, our PAC has shifted substantial amounts of its resources to what we call Issues Advocacy Campaigns and away from direct contributions. What is an issue advocacy campaign?

When we have an issue that is of concern to our members, be it at State, local or Federal level, we spend those dollars raised through the RPAC fund-raising mechanism to educate not only our members but to educate the general public, to educate policymakers, on our views.

For example, an issue that is now being hotly debated on the campaign trails and that is the overhaul of the Nation's Tax Code and what that might mean in terms of elimination of mortgage interest deduction, State and local property tax deduction, what that can mean to homeowners, the value of their house, the affordability of housing, the housing opportunities in America.

The national RPAC trustees have spent over $350,000 this year on that issue alone. They just recently, last week, at their national trustees' meeting voted to spend another $300,000 to carry this campaign forward through the 1996 congressional and presidential campaigns.

All of this goes to raise voter awareness of key issues, it goes to involve our members politically in campaigns. We have a campaign to get out there to help encourage our members to run for Congress, to run for State legislature, to run for school board and to get other Realtors involved in helping these people. All this helps increase citizenship, political involvement in this country.

I want to conclude by responding to one question you asked the earlier panel, Mr. Chairman. If PACs were to go away tomorrow, would we still see that level of involvement? Would we still see that $3.15 million that RPAC raises and collectively spends in an election cycle?

Would we still see that in the system? No.

We have tried getting our members involved in direct giving and we have not been able to get the level of success that we have been able to do to get them to write the $25, $26 check to their PAC.

So by restricting PACs, you are going to restrict citizen involvement in this country, and I don't think that is a good thing for the American political system.

The CHAIRMAN. Thank you.

[The statement of Mr. Driesler follows:]

TESTIMONY OF THE NATIONAL ASSOCIATION OF REALTORS®

BEFORE THE

UNITED STATES HOUSE OF REPRESENTATIVES

HOUSE OVERSIGHT COMMITTEE

NOVEMBER 16, 1995

INTRODUCTION

Chairman Thomas, my name is Stephen D. Driesler. I am Senior Vice President and Chief Lobbyist of the NATIONAL ASSOCIATION OF REALTORS®. I am here today on behalf of the more than 730,000 members of our Association who are active and committed participants in their local communities, state legislatures and federal government. From its inception in 1969 to today, the REALTORS® Political Action Committee (RPAC) has grown into one of the largest of our nation's PAC's in terms of funds raised and number of member-participants.

Per year, 145,000 REALTOR® contributions are made to RPAC raising over $3.15 million dollars per election cycle with our average contribution equaling $26.76. California is an excellent example of our members participation in RPAC with approximately 30,000 REALTORS® contributing so far this year. REALTORS® take great pride in knowing that their peers, not professional fund-raisers, raise money from voluntary contributions at the local level.

The Constitutional right to petition our government stands behind our efforts to help our members become involved in all levels of government. Our local, state and national associations have various programs to encourage volunteerism in campaigns, to educate voters on issues

important to homeownership and the real estate industry, to support candidates for elected office, and to write, call and visit elected officials, both here in Washington and at home, about legislative issues of concern to our industry and American homeowners.

This background is significant in highlighting the fact that NAR is a broad based organization that has an interest in a wide range of issues. These issues can be specific or broad, and impact to varying degrees on the real estate industry. These issues generally focus on preserving the American dream of homeownership, whether that involves keeping alive housing incentives, access to mortgage funds, or balancing the Federal budget. For example, our grassroots organization is currently involved in supporting the passage of the budget proposal. Our involvement stems from the need for incentives like having access to Individual Retirement Accounts (IRAs) for first-time homeowners and capital gains tax reductions.

RPAC STRUCTURE AND MEMBER PARTICIPATION

The REALTORS® Political Action Committee was organized in 1969, the committee has grown in conformity with changes in election laws over the years. All RPAC funding is done at the local level; no RPAC fundraising mechanisms, such as direct mail, are utilized at the national level. RPAC has agreements with each of our 50 state associations of REALTORS® that spell out the relationship between national RPAC and each state PAC. Specifically, national RPAC receives 30 percent of all contributions raised at the local level. Seventy percent remains within each state and is used to support state and local candidate campaigns. In addition, many states divide their funds into direct candidate contributions and issue campaign funds enabling our members to advocate public policy issues at even the lowest levels of government.

By far, the most important aspect of RPAC is that local REALTORS® hold candidate interviews and make the contribution decisions which are ratified by our national leadership. RPAC does not support a candidate without direction from REALTORS® within the local congressional district. In practically all cases, contributions are presented to federal candidates by our volunteer leaders at the local level --- not by NATIONAL ASSOCIATION OF

REALTORS® staff in Washington, D.C. --- because it is at the local level that RPAC requests are made. Our members are exercising their right to participate in our political system to make democracy work. Many REALTORS® who cannot walk precincts or who are unable to work on phone banks because of their job or physical condition, find that making a small contribution is their way of participating in government.

GENERAL PUBLIC EDUCATION

RPAC encourages greater grassroots participation by providing its membership with an additional opportunity to have their views and concerns heard in an organized fashion in issue areas that are of fundamental concern to them. Over the past year, RPAC has focused much of its activity in the area of congressional legislative advocacy. This has been done to increase the power of our grassroots lobbying by mobilizing REALTORS®, as well as targeted segments of the general public, to gain the support of key Members of Congress and Senators for the REALTOR® position on a specific legislative objective. NAR's Congressional Legislative Advocacy Program focuses exclusively on federal legislative policy positions approved by the NAR membership. The Program extends our grassroots activities well beyond our membership by using communication and mobilization techniques to deliver targeted messages to the real estate industry and/or other voter groups who can help effect the outcome of critical legislation. The importance of the issue and the number of targeted congressional districts or states determine the method and amount of advocacy resources used on a given campaign. Over the course of 1995, RPAC made substantial funds available to educate America's homeowners on the negative implications a flat tax would have on home values.

With these examples in mind, PAC reform could deny not only NAR members, but citizens at large, the right to participate in elections and restricts the ability of citizens to express his or her financial support for the candidate of choice.

LOCAL FUNDRAISING AND POLITICAL PARTICIPATION

RPAC, as an aggregate voice for our membership's political, social and economic concerns, not only informs American policy makers of those concerns but RPAC also provides an avenue for solidified political action for the thousands of real estate professionals whom we represent.

Thousands of our members are active politically. Many hold elected office ---- Some are members of Congress ---- Some chair political campaigns. They serve in state legislatures, on education boards, and in local governments. To place restrictions on access to media, on the ability to communicate with concerned voters such as the politically active voters who comprise our membership, is to stifle communications and further add to the sense of frustration the American voter currently feels. It would also run against the grain of the guarantees of the First Amendment. So if we are to have open, free and competitive elections, the cost of campaigns will indeed increase. If that is the case, then the funds needed to finance political campaigns should expand, not contract. What's wrong with encouraging more grassroots participation?

REALTOR® COMMUNICATION

Another way RPAC involves our members in elections is through constant communication with our members on specific candidate campaigns. This type of communication channels REALTOR® grassroots support for federal candidates who are strong supporters of the real estate industry. It may be as simple as educating REALTORS® about the candidate's voting record on real estate issues to ensure REALTOR® support of the candidate on election day, or as involved as organizing REALTORS® to help directly effect the outcome of the race through REALTOR® volunteer efforts. Activities funded by RPAC include educational and advocacy mailings, as well as phone banks on behalf of REALTOR® supported federal candidates. Most candidates find these activities a tremendous compliment to direct contributions because these activities are carried out by unpaid advocates of the candidate and show local support for their views. For example, through these activities in 1994 RPAC involved over 22 percent of our total membership (or 154,000 REALTOR® members) in 66 Congressional Districts, spending approximately $287,618 to encourage both voting and volunteerism. Moreover, this election

cycle, RPAC expects to spend as much as $500,000 communicating to and organizing our membership to help elect candidates who support the American dream of homeownership.

GRASS ROOTS – MEMBERS AND PUBLIC

We are very grassroots oriented with a politically active membership. Our members want to be heard and they demand from the Association's Leadership the tools and programs that enable them to be heard. RPAC's success has been based on the fundamental principle that we achieve more by acting together than by acting separately. ***We pool our voluntary contributions, not to see them necessarily returned to where they were raised, but to be used in ways and in locations where they will be most effective, such as expanding homeownership and protecting private property rights. RPAC believes that our effectiveness is increased by balancing our resources among direct candidate contributions, grassroots involvement and issue advocacy.***

Our average contributor gives about $27. That is not a large contribution by most standards, but it is an exercise of our fundamental rights in a free society. What a member of NAR does expect is a chance to support political candidates who agree with the goals of the Association. That is also a fundamental right of a free society.

CONCLUSION

In closing, I want to leave you with a focus on how limitations on PACs will greatly impact a citizens' right to participate in government. We have found RPAC contributors are more likely become involved in the legislative process than non-contributors. RPAC contributors are more likely to respond to requests from NAR to call their elected representatives. Clearly, these contributors view PACs as a way to participate in the legislative process. Many of these same contributors seek public office and participate in local government. They do not hesitate to express their views to representatives or the public and ***most importantly — they vote.*** Their PAC contributions in short, make them better citizens and such contributions should not be limited or curtailed.

The CHAIRMAN. Mr. Parmelee.

STATEMENT OF KEN PARMELEE

Mr. PARMELEE. Chairman Thomas, Congressman Fazio, good afternoon. My name is Ken Parmelee, I am the Vice President of the National Rural Letter Carriers' Association, an 87,000 member postal union that has maintained a political action Committee for a number of years.

Unfortunately, today the news media and the public, including our membership, is very critical of PACs because it is perceived that we represent special interests. There is a perception that large individual contributors are cleaner or better than PAC contributions.

This I believe is a false premise. Individual large contributors have special interests, too. I believe it was the cartoon strip POGO which said: We have found the enemy and he is us.

In fact, virtually every American has some kind of a special interest, and if you take large contributors, they may not be as readily identifiable as money coming from a political action Committee, and that is because PACs have a principal entity which registers with the Clerk of the House and spells out what our legislative interests are.

But we at the Rural Letter Carriers believe that our contributors become stakeholders in the election process. In the case of Rural Letter Carriers, the average rural letter carrier earns approximately $36,000 a year and we live geographically all across the United States, except in the major cities.

Approximately, 12,000 of our members give an average of $23.00 a year to their PAC. Last year, about $1,000 of them gave as much as $100 and only 12 of them gave over $200. Our PAC is truly a pool of small donations from our members.

Rural letter carriers live in about 23,000 zip codes across the United States. That is just about half the zip codes in the country; 8,000 zip codes are represented by contributions to our political action Committee. On the other hand, if we take—and I don't have current election figures, but I have them from 1990—the top 10 zip codes in the United States gave 5 percent of all the individual contributions to Members of Congress and the top 100 zip codes gave 21 percent of all the contributions, and one Manhattan zip code gave more individual contributions to campaigns than from each of 24 States.

So it is our belief that if you want to involve citizens in this process and keep them involved in the process, you will not ban PACs but keep us around, because as the other witnesses have said, we get our members to participate in the process and our members live everywhere and they vote for you all and they get involved in your campaigns, and that is exactly what we want them to do.

We don't think PACs are a problem. The perception of money is a problem; we all recognize that. That was the heart of the 1974 reforms; the perception of money. But then I suspect the perception of money has been a problem since the beginning of the republic.

We at the Rural Letter Carriers like the Speaker's proposal. I have not had a chance to study it in detail, but we think the appointment of a commission of wise men and women to study the

problem with a closure that Congress could vote up or down on is a very constructive idea.

That concludes my testimony. And I would be glad to answer any questions that you have.

Thank you for holding these hearings, Mr. Chairman. We appreciate them very much.

The CHAIRMAN. Thank you.

[The statement of Mr. Parmelee follows:]

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TESTIMONY OF

KEN PARMELEE

VICE PRESIDENT OF GOVERNMENTAL AFFAIRS

NATIONAL RURAL LETTER CARRIERS' ASSOCIATION

BEFORE THE

HOUSE OVERSIGHT COMMITTEE

ON

CAMPAIGN FINANCE REVISION AND

POLITICAL ACTION COMMITTEES

NOVEMBER 16, 1995

Good Morning, Mr. Chairman and Members of the Committee. My name is Ken Parmelee, and I am the Vice President of Governmental Affairs for the National Rural Letter Carriers' Association, an 87,000 member postal union that maintains a political action committee.

I have been involved in campaigns and fundraising for the last 30 years. As the Committee well knows, PACs were given a fully sanctioned status as part of the Campaign Reform Laws of 1974. The law was a good effort to clean up the previously murky world of campaign finance, and frankly, PACs have done an excellent job of disclosing the amount and source of the money being given to candidates.

Today, corporations, unions, trade associations and ideological PACs collect and pool voluntary contributions from millions of citizens. The news media and the public are critical of PACs because we represent special interests. For several years, it has been alluded that large individual contributions are cleaner, or better, than PAC contributions. This, I believe, is a false premise. Individual large contributors are special interests, too. The difference is, on the surface, rich individuals' contributions may not be as readily identifiable as money coming from a political action committee because PACs have to register their legislative interests with the clerk of the House through their main entity. Nevertheless, in the case of rich individuals, with enough research, their interest can also be determined.

Our organization believes it should be everyone's responsibility to encourage all citizens to participate in the election process. We believe PACs do an excellent job of serving that purpose by getting many citizens to make small donations for elections. These citizens become stakeholders in the election process.

In the case of rural letter carriers, the average rural letter carrier earns approximately $36,000 a year, and we live geographically all across the United States. Approximately 12,000 of our members give an average of $23 a year to their PAC. About 1,000 gave $100 each, and 12 members last year, out of 12,000, gave $200 or more. Our PAC is truly a pool of small donations from our members. Rural letter carriers live in approximately 23,000 zip codes across the United States. Our PAC contributions come from 8,000 zip codes.

Compare that with the fact that in the 1990 elections, the top ten zip codes in the United States gave five percent of all the individual contributions to Members of Congress. The top 100 zip codes gave 21 percent of all contributions. And one Manhattan zip code contributes more to Congressional campaigns than all the individual contributions from each of 24 states.

It is our belief that through our political action committee, we have encouraged citizen participation in the electoral process. Congress, by enabling us to have a PAC, has enabled us to provide our members, rural letter carriers, with a voice in the federal election process. We hope that in the interest of continuing to encourage citizen participation that this committee will find that PACs are not a problem. In fact, PACs have performed very well for getting citizens involved and keeping their interest in the election process, rather than discouraging them. We hope this is the goal of this committee, and it should be the goal of the Congress. Simply, PACs have gotten a bad rap because we are easily identifiable, whereas individual contributors are not as easily identified.

PACs are not the problem. The huge amount of money it takes to finance our elections may be a problem, but the banning of PACs will only make it more difficult for millions to participate meaningfully. The problem is simply much more complex and would require much more thorough changes.

I have not studied it in detail or seen it expanded, but frankly, I thought the Speaker's proposal to set up a commission of wise men and women to study the problem was correct. I also agree with the Speaker that there is probably not enough money in the system, not too much. When we realize we elect the Chief Executive of this country, and the world, on a budget that is smaller than what McDonald's spends annually on their advertising, then I agree with the Speaker. There is not enough money in the system.

Mr. Chairman, I thank you and Members of the Committee for the opportunity to present our views and for your deliberations on this very complex issue. I would be delighted to answer any questions. Thank you.

The CHAIRMAN. The gentleman from California.

Mr. FAZIO. Thank you, Mr. Chairman.

Since this is a panel of PAC partisans, let me see if I can ask you to look at some of the issues that might amount to PAC reform within the community of PACs. I apologize I didn't hear all of the panels make all of their remarks.

We have in particularly the two groups represented to the left of the audience very broad based organizations. We know, however, there are PACs that don't have mass membership organizations behind them or many contributors. Is there a way that we could win the structure of reform of PACs, engender more participation, more democracy with a small "d," if that is a question about how contributions are made?

Are there ways we could take some of the rough edges off the PAC attack by showing more clearly that these are organizations that represent thousands of people and not a handful of people who have found another way to amplify what is probably already for them a loud voice in the political process by making personal contributions as well?

I would be interested in your thoughts as it relates to the original purpose of PACs as it was created in the image of the Clark McGregors of the world, who were looking to come up with an alternative to mass membership labor PACs, bringing white collar workers or corporate middle management and senior management people together in a political process, much like these two organizations certainly have perpetuated.

Mr. STOCKMEYER. The law as it stands today, in order to become a multi-candidate Committee, you have to have 50 people contributing to your organization. So you start with that base. Some expansion on that, PAC probably it is not a bad idea to look at. I think it is, however, a myth that there are a lot of PACs out there that only have a small number of people in them that give major amounts of money to the PAC and then in turn to candidates. I don't know any of those.

Our surveys of the corporate community shows that there are 800 people on average per corporate PAC and their average contributions are slightly less than $200 a year to the PAC. There may be a handful of those, but I don't think it is a particular problem.

But the idea that you should perhaps reward those that are better at stimulating people and getting them involved in campaigns is not a bad concept. I am not sure how you might implement that. I think it would have to be broad gradation.

Some of the proposals in early Congresses talked about fat cat PACs, which I don't think there are many of, and skinny cat PACs, that just weren't not based on evidence, but they protected certain groups and penalized others. If you get down that road, I think it is a slippery slope.

Mr. FAZIO. If others want to comment on ways of emphasizing more participation by structuring the rules a little differently, I would be glad to hear it.

Mr. GORA. I think partly the problem is one of political education. I think if enough people saw the tape of these hearings they might realize that PACs do represent a broad spectrum of American political life, that they are an important vehicle for participa-

tion by the average person and the more than average person. That is their genius. I think the major problem, assuming that the structure of the law were to remain essentially unchanged, is a matter of political education.

Mr. DRIESLER. The one comment that I would have is that while almost I think any standard of a skinny PAC or broad levels of participation or low average dollar contribution, a Realtor PAC would fall into that framework, so I could sit there and be very self-righteous and say, yes, yes, limit those PACs and we can go ahead and do our business the way we are doing it now.

But prior to going with the National Association of Realtors, I was with another real estate trade association here in town. I also oversaw their PAC. They did not by the nature of the membership have as broad a base. They tended to represent companies as opposed to individuals and we had a much higher dollar contribution. We had a much smaller number of people contributing. We also had a much smaller overall total dollar amount in which to give.

I think it would be unfair to say that that PAC is somehow or other tainted or not viable, because I tend to agree with the statement that participation, the problem of participation is solved by getting more people involved and that includes people who are able to write $1,000, or even sometimes multithousand-dollar checks to a PAC, as long as there is full disclosure, which we would, as to where those contributions are coming to and who those contributions are going to, I think that is the real problem that needs to be addressed and solved by disclosure, which is exactly what the PAC reform of 1974 did.

Mr. FAZIO. Thank you.

The CHAIRMAN. I think I will use Mr. Crane as a foil since he is not here.

In part of his testimony he indicated what contempt the legislators earlier must have had for the process by virtue of the structure that they created. I was going to engage him in discussing the fact that everybody who has been elected has come through the process doesn't necessarily make them contemptuous. They may be ignorant or naive about the consequences of the decisions they made.

What we tried to remind people in the first hearing was that we had a spurt of laws basically in the early 1970s, one court case, and then a series of decisions from a commission that was created out of those laws, with virtually no changes since then; a lot of stops and starts and attempts, but no fundamental reexamination.

What we are trying to do at this time, notwithstanding the pressure to move product, which many of us believe to be imperfect in a number of ways, is to carry out a more fundamental examination of what went on in the 1970s, so that we don't create those, as Mr. Stockmeyer said, unintended consequences.

When you began looking at the way in which individual contributions relate to individuals who are part of partnerships which get counted if they contribute to the partnership, back toward the individual contribution, but that if they had made it through a PAC, it doesn't count toward the individual contribution, it creates a rather mine field of when and how and through which structure

you contribute. I don't think it was through contempt. I just don't think folks understood what they were doing.

Mr. Driesler, you outlined the activity of the Realtors PAC, and I said earlier that I thought political parties were relatively unique institutions in that they carried on a series of activities that no other institution carried on, and I talked about recruiting candidates for office and making sure those candidates get elected and to program public policy.

In your outline of your PAC, talking about your issues thrust and recruiting candidates and helping to finance them sounds a lot like a political party. I was sitting here trying to go over my definition, and I said, wait a minute; there are several Members of Congress who were in fact realtors when they ran for office, and several of them have indicated to me, notwithstanding the fact that they were realtors, the realtors did not contribute to their election, but to their opponents, who happened to be incumbents.

I just use that for this segue. I still believe my definition is valid because I haven't seen too many situations where the Democrats help a Republican get elected or a Republican helps a Democrat, or any other party structure.

Mr. FAZIO. Only indirectly.

The CHAIRMAN. That goes back not to contempt, but ignorance and naivete. I have a real concern about the belief that many people think political parties are super-PACs or PACs are mini-parties. I believe that neither is either.

Mr. Stockmeyer, when you went through your analysis of what would happen in the system if we followed the wishes of some of our colleagues and did away with PACs, and you indicated there would be fewer dollars, there would be more time spent trying to raise dollars, more reliance on the wealthy, less accountable in terms of the structure, education would suffer structure, and my desire to respond to you at that time was only if you keep the current structure, because what you have done is shut down political parties which used to perform all of those functions. If you released political parties, it wouldn't necessarily produce the result that you have.

I guess what it does is caution us that if we are going to make a change in one area, we had better understand it is going to have an influence in another.

I will make one more statement.

Mr. Gora, the appeal is always fundamentally exciting when someone tells me the First Amendment says, "Congress shall make no law." Yes, but Justice Holmes said you can't shout fire in a crowded theater if there is no fire. So from that absolute position of the First Amendment, which is sometimes difficult to defend, I don't know that I absolutely support somebody's ability, not necessarily based upon any achievement that occurred in their lifetime other than an accident of birth, to be able to go into the political arena and blow out anybody else's ability to participate. There I am wrestling with the question of yes, but, yes but, as we move through it.

Now, your point in *Buckley*, I think is more reinforced today about disclosure being the fundamental sunshine in the system, because technology allows us to make disclosure a real-time part of

the campaigns more today than ever before. We just passed a bipartisan, with no objection, reform in the statutes to allow the FEC to begin electronic filing, and I think in a short time we will have a real time campaign participation on the question of disclosure.

But notwithstanding that, I still bump up against Justice Holmes' argument of not being able to shout fire in a crowded theater when there is no fire.

Mr. GORA. You are correct; the First Amendment has not been interpreted as absolutely protecting all utterances, written or spoken. On the other hand, where political speech is concerned, the Court has given the First Amendment its most stringent application. And so the words of the First Amendment are a special caution that of the various kinds of laws that threaten the First Amendment right of expression, of communication, the ones that we are to be most concerned with are those that emanate from Congress, and particularly those that form the rules of the political road.

Mr. STOCKMEYER. Mr. Thomas, if I could comment on your question of what happened in the 1970s and about political parties.

I was around when the 1974 Act was passed, and shortly after it took effect found myself trying to manage the National Republican Congressional Committee, the campaign arm of House Republicans under the new law. I found at that time most everybody, least of all incumbents, had no idea of what was in that 1974 Act and were astounded when they came to us in the 1976 election and said where is my big amount of money that I used to get from my campaign Committee. I am sorry; we can't give it to you because the law treats us as no more than a super-PAC. That is unacceptable I think to the two-party system in this country or any number of party system, for that matter.

The party Committees are not special interests. The party Committees are there for a broad range of purposes. Obviously, I am biased on this point, but I think the whole system would be better off if the parties were stronger, were able to do more.

I would take all their limits off, subject them to full disclosure, and I think the system would be a lot better off if we did that. I don't think that would stop PACs from trying to do what they can do in their little narrow corners of the world or broad corners, but they should be encouraged as well.

But in many ways the parties have supplanted the law, the presidential campaigns are not as vigorous as they should be. The 1974 Act is a failure and we really ought to examine it and consider taking some of it off, not putting more of it on.

Why would we take a failed law and do more of it? It is beyond me that we should move in the same direction that the 1974 Act did.

The CHAIRMAN. Would I be pushing it if I referred to an article in the Wall Street Journal today entitled "The Man Who Ruined Politics," which is an article about Fred Wertheimer and Common Cause and their view of a destroy-the-field-to-save-it-approach to campaign financing.

Does anyone want to respond to that general question; because otherwise I would go to the PACs and say this. Notwithstanding the statements that you have made, one of the criticisms which I

think has a degree of concern, if it is valid, is the broader argument of what we have here, our diverse educational and informational structures that allow us to bring more people into politics and allow for participation in politics through pooled dollars has largely not been achieved. Rather, basically what we have in most PACs are centralized check collecting agencies that are primarily interested in influencing the system vis-a-vis assisting incumbents to remain in office.

I put this fairly harshly, and I guess the way I would ask each of you to respond is by asking have you found that your attempts to educate and inform folk satisfied you in terms of fulfilling the goals that you had about getting them involved in the system, or has it been as frustrating as to most other folk trying to get your average person involved? Does the hook of participation either in the professional letter carriers or realtors and the tie to the PAC which is part of their at least work-a-day world—has that been a lever that you have found you could use to get people more interested in the system?

Mr. DRIESLER. The answer is absolutely yes. Let me give you examples of the two gentlemen who are sitting here today.

In your district, Mr. Thomas, we have 1,581 Realtors. We get 500 plus of those who donate to the PAC every year, a 31 percent participation rate. In Mr. Fazio's district, he has over 5,500 Realtors in his district; 2,300 plus donate to the PAC, over a 43 percent participation.

Mr. FAZIO. I just came out for in-district fund-raising.

Mr. DRIESLER. One of the things that we are most proud of is that our decision making is from the ground up. And you gentlemen both know because you have gone through the process, the national PAC trustees don't ever originate a request. They respond to, approve, deny, amend a request that originates in your home congressional districts in your home State.

You have gone to those candidate interviews. They look at your voting record and they choose to support you because you have been right on issues that are important to those realtors back in those home congressional districts and home States. They may choose, and in many instances have chosen, that even if a realtor runs that they not support them, not just because they are a realtor, but because more fundamentally we believe that it is important to get realtors involved, but we think it is important to support those people who believe in private property rights, who believe in homeownership opportunities, who believe in the type of issues that you gentlemen espouse, and to make sure that people like you remain in Congress if you are there, and if you are not in Congress, to do everything we can to get you there.

Our PAC was the fifth largest donor to challengers in open seats during this last election cycle. We habitually run about that level. We put a lot of our resources into open seats and into challenger seats. But yes, we do give a lot to incumbents, but individuals give proportionately the same amount to incumbents as PACs do, because you are dealing with a known quantity, and as one person alluded to in the earlier panel, you are dealing with an odds that heretofore have said 98 percent of you get reelected. Those odds have come down slightly in the last two election cycles, but it is

still 90-plus percent, which is a pretty good bet in any horse race. But still, fundamentally, notwithstanding that, we look primarily at issues, at voting records and what the realtors back home tell us who they want us to support and that makes the determination.

The CHAIRMAN. The point I tried to make about comparing the realtors to political parties was to point out that even if you emulate most of what a political party does, you can't do it because PACs are not mutually exclusive operations like political parties. Political parties are in fact unique institutions, and my definition survived even your expanded role for PACs.

Mr. DRIESLER. And we would support expanded roles for political parties. We have been major donors to political parties in the belief that it is important to have a viable two-party system.

Mr. PARMELEE. Mr. Chairman, in part, the reason that PACs, as individual as you so well pointed out before, end up supporting so many incumbents is you develop a voting record. You develop a history with the organization of how you deal with that organization, and therefore the organizations tend to go more towards incumbents.

But in open seats, we encourage our State leadership to interview the candidates and to actually get involved, give them a questionnaire and see where they stand on issues that are vital to us. And we also feel that those people who do give money to PACs really become stakeholders and really do care about voting, frankly, more than our other members do.

Mr. DRIESLER. Let me add, we have over 200,000 of our members who have at some time given to the PAC. When we have an issue before Congress, we will typically send out a call to action. No doubt you have been recipients of some of those calls and letters.

We have tracked the amount, the percentage response from those who have given to the PAC versus those who have not, and it is like three and four times the level of people who are willing to pick up the phone or get out their pen and pencil and write a Member of Congress or call them or send them a telegram from people who have that stake hold because they have given to the PAC. We think that is an important correlation.

Now, it is what comes first; the chicken or the egg, and that is hard to answer, but there is a clear correlation with their willingness to participate in other levels, including voting, including working in the opportunity races, volunteering their time, to the fact that they have given a dollar or $2.00 or $5.00 or whatever to the PAC versus that person who has not given a nickel.

Mr. STOCKMEYER. Mr. Chairman, let me add on this incumbency point, the seeming bias of PACs toward incumbents, I think it is sort of a bum rap because almost every form of political giving tends to favor incumbents. But one chart you might consider having for another hearing is to measure the years where there is political volatility and opportunity and you will find then the PAC percentages that go to nonincumbents increases.

PACs are very heavily involved where there are marginal races. Some PACs are on one side and some are on the other. But they are in there. But that shouldn't—it is difficult for us to accept the idea that people would challenge our right to come together, but it is even more abhorrent I think constitutionally that anyone would

question how these people decided to express themselves politically through their fund-raising. I think that that is a fundamental point that we forget. If a PAC organizes and decides to give all its money to incumbents, so what? That is their right.

The CHAIRMAN. Mr. Fazio.

Mr. FAZIO. I just wanted to comment, I am aware that the two PACs at the table do give to parties. Many don't and I think that is up to each individual PAC to determine. But in the last Congress one of the issues that slowed down the ultimate resolution of the conference on campaign finance reform was with the elimination of soft money for the two parties, certainly the national Committees and the House Committees.

It was the suggestion of some, including this Member, that we be able to take more money from PACs to make up for—only a small amount, I am sure, of the shortfall that would have occurred with those party Committees. Even though we had only suggested a modest increase in what PACs could give, and even though those PACs would have been vastly reduced in their ability to give to Members given the other aspects of the bill that reduced the total amount of PACs that Members could take dollars from, we were unable to get support from any of the outside support groups for campaign finance reform for the concept of giving more money to the parties. So they have not only a concern about PACs generically, they have a concern about giving more money from PACs to the parties, which is I think one of the reasons why every time we attempt to legislate in this area we end up weakening the parties even more. I would have hoped for more flexibility, but it didn't exist in the last cycle.

Mr. GORA. If I might amplify on that point, one of the points we have always tried to make as both a political science and a constitutional law point was that if you restrict people's ability to use their resources to communicate their message in one way, they will try to do it in another way, and that is perfectly understandable. But then you will have as skewed and imbalanced a system as you thought you were trying to create. That is the law of unintended consequences that we are talking about. That is why good political science and good constitutional law come together in a way that says the right of candidates and PACs and issue groups and lobby groups and media groups are all the same right under the first amendment, to speak, to communicate, to use their resources essentially without limitation.

The CHAIRMAN. One comment on that, and I would like you to react to it. It is in part taking off from what Mr. Fazio has said. I think there is some concern, and I would like some constitutional reaction or rational political reaction to the argument about the movement of money in politics horizontally or vertically. One way money moves is vertically, the idea that if an individual contributes to a PAC, then the PAC is supposed to contribute to a candidate running for office. Also, if an individual contributes to a party, then the party can contribute to the candidates of that party, this is vertical movement of money.

There is a concern about horizontal movement of money from individuals to PACs and from PACs to parties, and then from parties to candidates, or from individuals or PACs to other candidates who

are usually incumbents who then have leadership PACs of their own which then contribute to other candidates running for office. There is some concern that the horizontal movement of money within the system short circuits both individuals, PACs and political parties in the system.

Any reaction to that? Some people watching on television might want to know what in the world is he talking about? I think you folks do, and as we talk about it more, then people might understand.

Mr. DRIESLER. The National Association of Realtors a number of years ago—we have been around this racetrack, too, on campaign finance reform—are on record as having favored and called for the abolition of leadership PACs. Our national PAC trustees a couple of years ago said, let's put our money where our mouth is, and we have voluntarily suspended giving money to leadership PACs for the very reasons you just so well articulated.

The political party issue has been a little bit difficult for us; I will be honest with you. There are many within our association who feel that if we give to a party they may in fact give then to candidates that our Realtors wouldn't support, in fact may be opposing, and that that is somehow a not wise use of the money. On the other hand, there are those who feel that parties are important, that they serve a vital interest of recruiting candidates, of helping get the message out, getting people involved, so we have been somewhat mixed.

We have reduced our level of party giving but we have not eliminated it completely I guess in an effort to try to strike a balance between those who feel we should be giving all our money either to candidates or to issues or to direct involvement as opposed to the horizontal transfer versus fill some legitimate and valid need to support the major political parties.

The CHAIRMAN. Let me say that if you were looking at it in the negative, the argument would be that people wouldn't want to move money horizontally because they would lose the influence, and the whole purpose of giving money is to influence, and why would you give money to somebody else to let them influence when it is your money.

I think the positive and legitimate way is accountability, the concern about being able to disclose and have disclosure means something in terms of where the money originated and where it went. I do believe and I do agree with the gentleman from California that when individuals or PACs contribute to political parties there is a way to structure for accountability and for disclosure that would be different from the horizontal movement of money in the leadership PACs or other noninstitutional structured giving.

Thank you very much for your participation. We may be back to you; obviously we will for ideas, and this may lead to additional hearings and we very much appreciate your input.

We have just heard from representatives of PACs and I thought it appropriate that in a discussion about PACs that although it is always valuable to hear from people who represent PACs, that we might ought to also have a panel of people who are members of PACs and who are themselves participants in PACs. So the third panel will consist of Kevin Kincaid, who is a fire fighter from Fair-

fax County, Virginia, and by virtue of his occupation and his choice, a member of the International Association of Fire Fighters, and I assume their PAC.

Adrienne Baylin is an employee of Baltimore Gas & Electric Co. John Kavanaugh is a member of the National Restaurant Association; and Nancy Dietz is a teacher with the Frederic County School System and a member of the National Educational Association PAC.

Let's begin with Adrienne Baylin. I will tell all of you, if you have written testimony, it will be made a part of the record. You have five minutes to inform the Committee in any way you see fit about political action Committees, your role and participation in them.

STATEMENTS OF ADRIENNE BAYLIN, EMPLOYEE, BALTIMORE GAS & ELECTRIC CO.; JOHN KAVANAUGH, KAVANAUGH'S ESQUIRE CLUB, MEMBER, NATIONAL RESTAURANT ASSOCIATION; NANCY DIETZ, TEACHER, FREDERICK COUNTY SCHOOL SYSTEM, NATIONAL EDUCATIONAL ASSOCIATION PAC

STATEMENT OF ADRIENNE BAYLIN

Ms. BAYLIN. Chairman Thomas, Ranking Member Fazio, respected Committee members, I am Adrienne Baylin. I am an employee of Baltimore Gas & Electric Company. I come before you today as a supporter of political action Committees.

PACs are important to me as an individual. Our PAC has enabled me to make my contributions count. By recognizing common goals and interests, BGE employees and retirees have banded together to voice our views to legislators, both to our Maryland delegation and on a national scale.

As an individual, I would not have supported candidates throughout the United States. Small political contributions by an individual seem insignificant compared to the cost of a political campaign. By pooling resources, BGE PAC gives me a voice while supporting the political process.

Contributing to a PAC is a very personal issue. The welfare of business itself is important to me. A less than favorable business climate jeopardizes my livelihood. In the current economic climate of cost cutting and downsizing, more and more businesses disappear. I want our PAC to support business interests to broaden Maryland's economic base.

I have come to look forward to BGE PAC newsletters. Through publications and discussions, PACs have a definite impact on neutralizing voter apathy and informing each member. PAC members tend to get involved. This results in better government.

Not all PAC issues conform to party values. My ideals tend to cross party lines. PACs are nonpartisan entities. They allocate funds based on voting record and an individual's view of issues. I feel this gives me the ability to support the best choice for political office. As a PAC, we have argued support for a candidate that expressed our collective viewpoint. PACs support the common goals, setting aside the interests of the individuals for the benefit of the many, and that benefits all.

Nothing in this world is perfect, but by keeping PACs viable in a small way we try to achieve perfection. I implore you to leave me my voice.

Thank you.

The CHAIRMAN. Thank you very much.

[The statement of Ms. Baylin follows:]

TESTIMONY OF: ADRIENNE J. BAYLIN
BGE PAC CONTRIBUTOR
Committee on House Oversight
Campaign Finance Reform Hearing
November 16, 1995

ADRIENNE J. BAYLIN
13915 Jarrettsville Pike
Phoenix, MD 21131

Respected Committee Members

My name is Adrienne Baylin. I am an employee of Baltimore Gas & Electric Company (BGE). I come before you today as a supporter of Political Action Committees (PAC's). PAC's are important to me as an individual. Our PAC has enabled me to make my contributions count. By recognizing common goals and interests, BGE employees and retirees have banded together to voice our views to legislators, both to our Maryland delegation and on a national scale.

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Nothing in this world is perfect. But, by keeping PAC's viable, in a small way we strive to achieve perfection. I implore you to leave me my voice.

Thank you.

The CHAIRMAN. Mr. Kavanaugh, I neglected to State that the reason you are a member of the association is, I presume, because you own Kavanaugh's Esquire Club, which is located where?

Mr. KAVANAUGH. In Madison, Wisconsin.

The CHAIRMAN. If you are going to come here, you might as well get a plug out of it. You just got the cheapest national advertising rate in the Nation.

Mr. KAVANAUGH. I appreciate it.

STATEMENT OF JOHN KAVANAUGH

Mr. KAVANAUGH. Thank you, Chairman and members of the Committee. Thank you for inviting me here today.

I am John Kavanaugh and I am testifying on behalf of the National Restaurant Association, the leading organization for the U.S. food service industry. Our industry is made up of nearly 740,000 food service units throughout the United States.

I own Kavanaugh's Esquire Club in Madison, Wisconsin. We have been in business for nearly 50 years. I grew up working in the restaurant for my father. That started in 1947 and I bought the restaurant from him in 1981. My son, now 23, is now working for me, and I hope some day that he will own the restaurant, too.

Kavanaugh's Esquire Club sometimes is asked questions, what kind of business we are, because some people think that we are maybe a private club. The Kavanaugh Esquire is a steak and seafood restaurant that serves lunch and dinner, seven days a week. Our customers tend to be regulars, everyone from local residents to a local Oscar Mayer meat packing plant, as well as many politicians, State and local, that come to the restaurant to meet and eat.

When the phrase "campaign finance" hits the headlines, people think that political corruption, high-stake campaign contributions, and big ticket fund-raisers are appropriate. They don't think of people like me. I am here today because I would like to put another face on it, one that I think is truer to life even if it is not good for the headlines.

I am a regular contributor to the National Restaurant Association Political Action Committee and for the past two years I have served as a PAC trustee, which means I have gotten more involved in both fund-raising and deciding where to spend our money. It has given me a real feel for the way a good PAC does business and I am proud that we do it that way.

Our PAC is a significant PAC. Last election cycle, restaurant owners contributed over $700,000 to the association's PAC. Nearly 60 percent of them contributed less than a hundred dollars. These are not shadowy figures with deep pockets, but they are people like me who have literally invested their lives work in their restaurant and who want to come together as an industry to impact on national politics.

We can be as different from each other as the Esquire Club is from McDonalds, but we share a lot of same concerns. We believe in a strong free enterprise system and getting rid of regulations that don't make sense, and keeping our taxes low so that our capital can go back into our businesses. That is why this PAC spends its money extremely diligently. Put simply, we support our supporters and we oppose those who oppose us.

Based on recommendations from local restaurateurs, we scour the country early and often for promising challengers, both incumbents and nonincumbents. Last year, 45 percent of our contributions went to challengers and not incumbents. That is a higher proportion than the average PAC. In fact, it is a higher proportion than the general public contracts to nonincumbents. We did that because we were dead serious about standing up for an industry that accounts for 9 million jobs and $290 billion in annual sales.

I tell you all this because we have nothing to hide at our PAC. It is a clean way of doing business, and like I said, I am proud of it. I don't kid myself that a donation to my PAC is not going to make or break an election. It makes me part of the democratic process, so it is the easiest way for me to participate in the process on behalf of my industry that is my livelihood.

I am at my restaurant six and a half days a week, usually working 12-hour days. My main goal is keeping my customers happy and keeping them coming back to see me. But because I know Congress' decisions in Washington affect the way I operate my restaurant in Madison, Wisconsin, I want to be involved at the national level, too, and the PAC gives me a way to do this.

People say that PACs cut the average citizen out of the electoral process. I am here to say the exact opposite. Literally thousands of restaurant operators have been brought into the electoral process by the National Restaurant Association Political Action Committee. As you know, the names of anyone contributing over $200 are available as a matter of public record. We are happy to provide the names of all others, too. I can hardly think of a more open and responsible way to encourage participation in the democratic process.

The CHAIRMAN. Thank you.

[The statement of Mr. Kavanaugh follows:]

TESTIMONY OF THE NATIONAL ASSOCIATION OF REALTORS®

BEFORE THE

UNITED STATES HOUSE OF REPRESENTATIVES

HOUSE OVERSIGHT COMMITTEE

DRAFT

NOVEMBER 16, 1995

INTRODUCTION

Chairman Thomas, my name is Stephen D. Driesler. I am Senior Vice President and Chief Lobbyist of the National Association of REALTORS®. I am here today on behalf of the more than 730,000 members of our Association who are active and committed participants in their local communities, state legislatures and federal government. From its inception in 1969 to today, the REALTORS® Political Action Committee (RPAC) has grown into one of the largest of our nation's PAC's in terms of funds raised and number of member-participants.

During the 1994 election cycle, for example, 382,723 REALTOR® contributions were made to RPAC raising over $3.15 million dollars, with our average contribution equaling $26.76. Specifically, in California over 29,000 REALTORS® have participated in RPAC so far this year. REALTORS® take great pride in knowing that their peers, not professional fund-raisers, raise money from voluntary contributions at the local level.

The Constitutional right to petition our government stands behind our efforts to help our members become involved in all levels of government. Our local, state and national associations have various programs to encourage volunteerism in campaigns, to educate voters on issues important to homeownership and the real estate industry, to support candidates for elected office,

and to write, call and visit elected officials, both here in Washington and at home, about legislative issues of concern to our industry and American homeowners.

This background is significant in highlighting the fact that NAR is a broad based organization that has an interest in a wide range of issues. These issues can be specific or broad, and impact to varying degrees on the real estate industry. These issues generally focus on preserving the American dream of homeownership whether that involves keeping alive housing incentives, access to mortgage funds, or balancing the Federal budget. For example, our grassroots organization is currently involved in supporting the passage of the budget proposal. Our involvement stems from the need for incentives like homeowners having access to Individual Retirement Accounts (IRAs) accounts for first-time homeowners and capital gains tax reductions.

RPAC STRUCTURE AND MEMBER PARTICIPATION

The REALTORS® Political Action Committee was organized in 1969, the committee has grown in conformity with changes in election laws over the years. All RPAC funding is done at the local level; no RPAC fundraising mechanisms, such as direct mail, are utilized at the national level. RPAC has agreements with each state association of REALTORS® that spell out the relationship between national RPAC and each state PAC. Specifically, national RPAC receives thirty percent of all contributions raised at the local level. Seventy percent remains within each state and is used to support state and local candidate campaigns. In addition, many states divide their funds into direct candidate contributions and issue campaign funds enabling our members to advocate public policy issues at even the lowest levels of government.

By far, the most important aspect of RPAC is that local REALTORS® hold candidate interviews and make the contribution decisions which are ratified by our national leadership. RPAC does not support a candidate without direction from REALTORS® within the local congressional district. In practically all cases, contributions are presented to federal candidates by our volunteer leaders at the local level --- not by NATIONAL ASSOCIATION OF REALTORS® staff in Washington, D.C. --- because it is at the local level that RPAC requests

are made. Our members are exercising their right to participate in our political system to make democracy work. Many REALTORS® who cannot walk precincts or who are unable to work on phone banks because of their job or physical condition, find that making a $26.76 contribution is their way of participating in government.

GENERAL PUBLIC EDUCATION

RPAC encourages greater grassroots participation by providing its membership with an additional opportunity to have their views and concerns heard in an organized fashion in issue areas that are of fundamental concern to them. Over the past year, RPAC has focused much of its activity in the area of congressional legislative advocacy. This has been done to increase the power of our grassroots lobbying by mobilizing REALTORS®, as well as targeted segments of the general public, to gain the support of key Members of Congress and Senators for the REALTOR® position on a specific legislative objective. NAR's Congressional Legislative Advocacy Program focuses exclusively on federal legislative policy positions approved by the NAR membership. The Program extends our grassroots activities well beyond our membership by using communication and mobilization techniques to deliver targeted messages to the real estate industry and/or other voter groups who can help effect the outcome of critical legislation. The importance of the issue and the number of targeted congressional districts or states determine the method and amount of advocacy resources used on a given campaign. Over the course of 1995, RPAC made substantial funds available to educate America's homeowners on the negative implications a flat tax would have on home values.

With these examples in mind, PAC reform could deny not only NAR members, but citizens at large, the right to participate in elections and restricts the ability of citizens to express his or her financial support for the candidate of choice.

LOCAL FUNDRAISING AND POLITICAL PARTICIPATION

The REALTORS® Political Action Committee (RPAC), as an aggregate voice for our membership's political, social and economic concerns, not only informs American policy makers

of those concerns but RPAC also provides an avenue for solidified political action for the thousands of real estate professionals whom we represent.

Thousands of our members are active politically. Many hold elected office ---- Some are members of Congress ---- Some chair political campaigns. They serve in charitable organizations, on education boards, and in local government. To place restrictions on access to media, on the ability to communicate with concerned voters such as the politically active voters who comprise our membership, is to stifle communications and further add to the sense of frustration the American voter currently feels. it would also run against the grain of the guarantees of the First Amendment. So if we are to have open, free and competitive elections, the cost of campaigns will indeed increase. If that is the case, then the funds needed to finance political campaigns should expand, not contract. What's wrong with encouraging more grassroots participation.

REALTOR® COMMUNICATION

Another way RPAC involves our members in elections is through constant communication with our members on specific candidate campaigns. This type of communication channels REALTOR® grassroots support for federal candidates who are strong supporters of the real estate industry. It may be as simple as educating REALTORS® about the candidate's voting record on real estate issues to ensure REALTOR® support of the candidate on election day, or as involved as organizing REALTORS® to help directly effect the outcome of the race through REALTOR® volunteer efforts. Activities funded by RPAC include educational and advocacy mailings, as well phone banks on behalf of REALTOR® supported federal candidates. Most candidates find these activities a tremendous compliment to direct contributions because these activities are carried out by unpaid advocates of the candidate and show local support for their views. For example, through these activities in 1994 RPAC involved over twenty-two percent of our total membership (or 154,000 REALTOR® members) in sixty-six Congressional Districts, spending approximately $287,618 to encourage both voting and volunteerism. Moreover, this election cycle, RPAC expects to spend as much as $500,000 communicating to and organizing our membership to help elect candidates who support the American dream of homeownership.

GRASS ROOTS – MEMBERS AND PUBLIC

We are very grassroots oriented with a politically active membership. Our members want to be heard and they demand from the Association's Leadership the tools and programs that enable them to be heard. RPAC's success has been based on the fundamental principle that we achieve more by acting together than by acting separately. ***We pool our voluntary contributions, not to see them necessarily returned to where they were raised, but to be used in ways and in locations where they will be most effective in advancing our common interest — our congressional legislative agenda. RPAC believes that our effectiveness is increased through enhancing the flexibility of our resources and shifting our focus from direct candidate contributions into grassroots expenditures.***

Our average contributor gives about $27. That is not a large contribution by most standards, but it is an exercise of our fundamental rights in a free society. What a member of NAR does expect is a chance to support political candidates who agree with the goals of the Association. That is also a fundamental right of a free society.

CONCLUSION

In closing, I want to leave you with a focus on how limitations on PACs will greatly impact a citizens' right to participate in government. We have found RPAC contributors are more likely become involved in the legislative process than non-contributors. RPAC contributors are more likely to respond to requests from NAR to call their elected representatives. Clearly, these contributors view PACs as a way to participate in the legislative process. Many of these same contributors seek public office and participate in local government. They do not hesitate to express their views to representatives or the public and *most importantly — they vote.* Their PAC contributions in short, make them better citizens and such contributions should not be limited or curtailed.

Biography

Stephen D. Driesler

Senior Vice President/Chief Lobbyist
Government and Political Relations

NATIONAL ASSOCIATION OF REALTORS®

Stephen D. Driesler is the Chief Lobbyist and a member of the senior management team of the NATIONAL ASSOCIATION OF REALTORS®, the nation's largest trade and professional association representing approximately 750,000 members involved in all aspects of the real estate industry. As Vice President in charge of all NAR Governmental Affairs activities, Driesler manages a staff of approximately 50 people and a budget of $7 million dollars. In addition, he oversees one of the country's largest political action committees, which during the last election raised and spent nearly $5 million on congressional campaigns. NAR is considered by many observers to have one of the most effective and influential lobbying operations in Washington, D.C.

Prior to assuming his current post with the Association in May, 1987, Driesler served five years as Executive Vice President of the National Multi-housing Council, whose members total about 6,000 and include builders, owners, managers, syndicators and other individuals involved in the multi-family housing industry.

Driesler, 47, has been actively involved in politics, including professional campaign management and consulting, for more than 20 years. From 1979-1982 Driesler served as Chief of Staff for U.S. Representative Larry J. Hopkins (R-KY) after serving as Campaign Manager for Hopkins' successful House race. Driesler has practical, hands on experience at all levels of government having worked as Administrative Assistant to the Mayor of Lexington, Assistant Fayette County Clerk and as a Staff Assistant to Governor Louie B. Nunn of Kentucky.

A Kentucky native, Driesler practiced law for five years prior to coming to Washington, D.C. He earned a Bachelor of Arts degree in Political Science and a Law degree from the University of Kentucky.

Driesler resides in McLean, Virginia with his wife, Marty Towles Driesler

The CHAIRMAN. Ms. Dietz, representing the NEA. I assume you are a teacher?

Ms. DIETZ. Yes.

The CHAIRMAN. What do you teach?

Ms. DIETZ. I teach math.

The CHAIRMAN. What level?

Ms. DIETZ. Seventh grade. Will there be a quiz?

The CHAIRMAN. It was less the subject and more the age level. The combination of the two must keep you busy. Thank you.

STATEMENT OF NANCY DIETZ

Ms. DIETZ. Good afternoon. I am Nancy Dietz, a seventh grade math teacher at West Frederick Middle School in Frederick, Maryland. I have come to speak to you today because I believe that you should maintain my right to participate in the political action Committee of the National Education Association.

As a teacher, my influence is not great. I do not often get the opportunity to speak with Members of Congress. But it is important that you hear my message. That message is that you must see to it that every child in the United States has an opportunity to learn. That opportunity often depends on you. You make decisions that affect schools and teachers and children, and your decisions are a result of a political process that affects us all.

How can I take part in that process? How can I join the debate? You do not often hear my voice, but you hear me because I can join with others like me to raise a collective voice in support of education. You hear the message of the NEA.

In my community of Frederick, Maryland, during the last election over $40,000 was raised in six weeks in support of candidates sympathetic to the interests of builders and other local businesses. It took the teachers of Frederick four years to raise $7,000 to support education. The teachers had $7,000 to carry the message of support for public education to the voters.

Guess who won? At the national level, it is those big corporations with great big blue chip names who raise money to pay for advertisements and mailings. They have money, they have a voice, and they are heard. Teachers don't have that kind of money. Teachers don't have that kind of money, but isn't it important that we have a voice? Isn't it only fair that my interests be represented in the political process along with those of large corporations? Through my individual contributions to my local, State, and national PACs, I have influence. I am included. Please protect my right to be heard.

Thank you very much for the opportunity to speak to you.

[The statement of Ms. Dietz follows:]

The House Oversight Committee
Chairman: Congressman Thomas

Testimony by:
Nancy S. Dietz
1782 Stonehaven Lane
Frederick, MD 21702
301-694-6286

Good morning Chairman Thomas and members of the House Oversight Committee. My name is Nancy Dietz. I teach seventh grade math at West Frederick Middle School in Frederick, Maryland. I have come to speak to you today because I believe that you should maintain my right to participate in the political action committee of the National Education Association.

As a teacher, my influence is not great. I do not often get the opportunity to speak with members of Congress. But it is important that you hear my message. That message is that you must see to it that every child in the United States has an opportunity to learn. That opportunity often depends on you. You make decisions that affect schools, teachers, and children. Your decisions are a result of a political process that affects us all. How can I take part in that process? How can I join the debate? You do not often hear my voice. But you hear me because I can join with others like me to raise a collective voice in support of education. You hear the message of the NEA.

In my community of Frederick County, Maryland during the last election over $40,000 was raised in six weeks in support of candidates sympathetic to the interests of builders and other local businesses. It took the teachers of Frederick four years to raise $7,000 to support education. The teachers had $7,000 to carry the message of support for public education to the voters. Guess who won? At the national level it's those big corporations with those great big, blue-chip names who raise the money to pay for advertisements and mailings. They have money. They have a voice and that voice is heard. Teachers don't have that kind of money, but isn't it important that we have a voice? Isn't it only fair that my interests be represented in the political process along with those of large corporations? Through my individual contributions to my local, state, and national political action committees, I have influence. I am included. Please protect my right to be heard.

The CHAIRMAN. Let me say briefly, I think it would be an amendment that you would accept to your testimony that every time you said "corporation," you would say "individuals in a corporation," since clearly it is illegal for corporations to participate in Federal elections. It was the individuals in the corporations.

Ms. DIETZ. That was my intent.

The CHAIRMAN. Right.

Mr. Kincaid, how long have you been a firefighter?

Mr. KINCAID. Almost 17 years.

The CHAIRMAN. Thank you. Please proceed.

STATEMENT OF KEVIN KINCAID

Mr. KINCAID. Mr. Chairman, Congressman Fazio, my name is Kevin Kincaid, and I have been an active fire fighter/paramedic for almost 17 years. I am currently a captain with the Fairfax County Fire and Rescue Department. I appear before you today to explain why I participate in FIREPAC, the Fire Fighters' Political Action Committee, and to tell you why I believe that PACs are beneficial to the Nation's emergency response personnel.

The decisions made by the United States Congress have an enormous impact on my life and the lives of all fire fighters. Whether the issue is assuring that the protective gear I wear into a fire meets basic safety requirements or assuring that my pension is secure, the votes cast by Members of Congress directly impact my ability to do my job and protect the public safety.

I believe that I have a right to support candidates for office who support fire fighters. Contributing to the fire fighters PAC is a way that I do that. All money raised by our PAC comes from voluntary contributions made by the Nation's professional fire fighters. The typical donation is around $25. I view political action Committees as a way for the average American to participate in our Nation's political process. The unfortunate reality is that wealthy people always have and always will be able to influence elections with their money.

PACs are the mechanism for fire fighters and other middle-income Americans to attempt to level the playing field.

Mr. Chairman, I don't know too many fire fighters who are in a position to sit down and write a check for $1,000. In fact, I don't know any fire fighters who can do that. But by pooling the small contributions of fire fighters across the country, the fire fighters' PAC is able to assist candidates who are willing to stand up for us and we were able to offset some of the financial advantages of candidates backed by those who oppose us.

It is a simple question of fairness. Upper-income people can raise $5,000 for a candidate who represents their interests by asking five friends to donate $1,000 each, but to raise $5,000 for a candidate who represents our interests, we must ask at least 200 fire fighters to donate $25 each to our PAC.

I firmly believe that banning PACs would unable the wealthiest Americans and large corporations to dominate the political process. Candidates who stand up for working Americans would simply not be able to compete. In short, PACs are the way that the voices of typical Americans get heard by our Nation's policymakers.

Large donations—whether from an individual or a PAC—come with an unstated message attached. When the fire fighters' PAC contributes to a candidate, it is understood that the support is being provided because the candidate supports fire fighter issues. I want my donations to carry a message and the fire fighters' PAC makes that possible.

In recent years there has been a great deal of rhetoric about the detriments of PACs on our political system. I hear these comments on radio and read about them in newspaper columns, and I even hear them echoed around the fire stations. I would like to share my thoughts with you on why I find these arguments misguided.

First, some people argue that PAC contributions are little more than bribes. Members of Congress, the argument goes, vote for legislation contrary to the public interest simply because their vote will be rewarded with a campaign contribution. Aside from being insulting to Members of Congress, this argument misunderstands the relationship between voting and PAC donations.

Members of Congress do not support fire fighter issues because they receive support from the fire fighters PAC. Members of Congress receive support from us because they support fire fighter issues.

It will come as no surprise to the members of this Committee that the fire fighters' PAC has been a strong supporter of Representative Curt Weldon, Mr. Fire Service in the United States Congress, but our support did not influence his views of fire fighters. Curt Weldon was the champion of fire fighters long before coming to Congress. The only thing that the fire fighters' PAC contributions did was help this champion of fire fighters win a seat in Congress.

A second argument used against PACs is that they comprise some sort of secret cabal, a mysterious group of people behind closed doors to manipulate the political process for their own selfish needs.

In reality, PACs are the most open and heavily regulated entities in existence. Every PAC donation expenditure is reported to the Federal Election Commission and available for public review, and the methods PACs use to raise money are restricted by Federal law and closely regulated.

I find it significant that despite the negative perception of PACs, campaign finance scandals in recent years almost never involve PACs. The Keating Five controversy, for example, dealt with contributions from individuals. The truth is, PACs are the cleanest, most accountable, and most open aspects of campaign finance ever developed, and banning PACs would surely make campaign finance less ethical than it is today.

Finally, the argument has been made that PACs are detrimental because they advance special interests. Mr. Chairman, allow me to tell you a few things about my job.

Fire fighting is the Nation's most dangerous profession. Every day fire fighters put their lives on the line to protect the lives and property of our fellow Americans. We are a very special group of people, and we have legitimate legislative interests. If that makes me a special interest, so be it.

I am glad that there is a PAC out there that supports me and one that I can support with my voluntary contributions.

I don't doubt that there are problems with the way that campaigns in this country are financed. It seems to me that too much money is spent campaigning, and there may be a way to reduce the overall influence of money on the political process. But whatever problems exist, PACs are not one of them.

As this Committee considers this issue, I leave you with a plea on behalf of myself and my fellow firefighters. Please don't take away our ability to participate in the political process, and please don't destroy my political action Committee.

Thank you.

The CHAIRMAN. Thank you.

[The statement of Mr. Kincaid follows:]

INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS®

ALFRED K. WHITEHEAD
General President

VINCENT J. BOLLON
General Secretary-Treasurer

TESTIMONY BEFORE THE

COMMITTEE ON HOUSE OVERSIGHT

ON

CAMPAIGN FINANCE REVISIONS

NOVEMBER 16, 1995

BY

CAPTAIN KEVIN KINCAID

FAIRFAX COUNTY FIRE DEPARTMENT

1750 NEW YORK AVENUE, N.W., WASHINGTON, D.C. 20006-5395 • (202) 737-8484 • FAX (202) 737-8418

Mr. Chairman. My name is Kevin Kincaid, and I have been an active fire fighter/paramedic for almost 17 years. I am currently a Captain with the Fairfax County Fire Department. I appear before you today to explain why I participate in FIREPAC--the fire fighters' Political Action Committee--and to tell you why I believe that PACs are beneficial to the nation's emergency response personnel.

The decisions made by the United States Congress have an enormous impact on my life and the lives of all fire fighters. Whether the issue is assuring that the protective gear I wear into a fire meets basic safety requirements or assuring that my pension is secure, the votes cast by Members of Congress directly impact my ability to do my job and protect the public safety. I believe I have a right to support candidates for office who support fire fighters. Contributing to the fire fighters' PAC is the way I do that.

All money raised by our PAC comes from voluntary contributions made by the nation's professional fire fighters. The fire fighters' PAC is prohibited by federal election law from soliciting donations from anyone who is not a member of the International Association of Fire Fighters, and all IAFF members decide for themselves whether or not they want to voluntarily contribute. The typical donation is $25. The fire fighters' PAC gives money to Democrats, Republicans and Independents based solely on their support of fire fighter issues.

I view Political Action Committees as a way for the average American to participate in our nation's political process. The unfortunate reality is that wealthy people always have and always will be able to influence elections with their money. PACs are the mechanism for fire fighters and other middle-income Americans to attempt to level the playing field.

Allow me to give you an example. A few years ago, the International Association of Fire Fighters was backing legislation to ensure that fire fighters would be able to identify hazardous materials that are being transported through their community. All too often fire fighters are called to the scene of emergency, and are not aware that hazardous materials are present. Some fire fighters have lost their lives as a result.

Not surprisingly, our proposal was met with stiff opposition from chemical manufacturers and trucking companies. The issue was hotly debated in Congress and became an issue in some congressional races. The huge chemical and trucking companies were actively backing candidates for office who opposed the fire fighters' proposal. Like directors and top executives of most corporations, I am sure the chemical and trucking executives found it relatively easy to raise significant amounts of money to assist these candidates. Many such individuals were in a position to write multiple one thousand dollar checks which they donated to various campaigns.

Mr. Chairman, I don't know too many fire fighters who are in a position to sit down and write a check for a thousand dollars. In fact, I don't know any fire fighter who can do that. But by pooling the small contributions of fire fighters across the country, the fire fighters' PAC is able to assist candidates who are willing to stand up for us, and we are able to offset some of the financial advantages of candidates backed by those who oppose us.

It's a simple question of fairness. Upper income people can raise $5,000 for a candidate who represents their interests by asking 5 friends to donate $1,000 each. But to raise $5,000 for a candidate who represents *our* interests, we must ask at least 200 fire fighters to donate $25 each to our PAC.

I firmly believe that banning PACs would enable the wealthiest Americans and large corporations to dominate the political process. Candidates who stand up for working Americans would simply not be able to compete. In short, PACs are the way that the voices of typical Americans get heard by our nation's policy makers.

Some people claim that middle income people don't need PACs to affect the political process because they can send their small donations directly to the candidates they support. But this overlooks one key aspect of donations. Large donations--whether from an individual or a PAC--come with an unstated message attached. When the fire fighters' PAC contributes to a candidate, it is understood that the support is being provided because the candidate

supports fire fighter issues. But if I send in a $25 contribution to a campaign office, the candidate has no way of knowing if my support is because of their views on fire fighters or gun control. I want my donations to carry a message, and the fire fighters' PAC makes that possible.

In recent years there has been a great deal of rhetoric about the detriments of PACs on our political system. I hear these comments on radio and read about them in newspaper columns, and I even hear them echoed around the fire house. I would like to share my thoughts with you on why I find these arguments misguided.

First, some people argue that PAC contributions are little more than bribes. Members of Congress, the argument goes, vote for legislation contrary to the public interest simply because their vote will be rewarded with a campaign contribution. Aside from being insulting to Members of Congress, this argument misunderstands the relationship between voting and PAC donations. Members of Congress do not support fire fighters issues because they receive support from the fire fighters' PAC; Members of Congress receive support from us because they support fire fighters issues.

It will come as no surprise to the members of this Committee that the fire fighters' PAC has been a strong supporter of Rep. Curt Weldon -- Mr. Fire Service in the U.S. Congress. But our support did not influence his views of fire fighters. Curt Weldon was a champion of fire fighters long before coming to Congress. The only thing that

the fire fighters' PAC contributions did was help this champion of fire fighters win a seat in Congress.

A second argument used against PACs is that they comprise some sort of secret cabal; a mysterious group of people meeting behind closed doors to manipulate the political process for their own selfish needs. In reality, PACs are the most open and heavily regulated entities in existence. Every PAC donation and expenditure is reported to the Federal Election Commission, and available for public review. FEC records are scoured by opposition candidates and the media for anything that may be of interest to the public. Moreover, the methods PACs use to raise money are restricted by federal law and closely regulated. For example, because the fire fighters' PAC is registered as the PAC of the International Association of Fire Fighters, it is prohibited by federal law from soliciting donations from anyone who is not a professional fire fighter and a member of the IAFF.

I find it significant that despite the negative perception of PACs, campaign finance scandals in recent years almost never involve PACs. The Keating Five controversy, for example, dealt with contributions from individuals. The truth is this: PACs are the cleanest, most accountable, and most open aspect of campaign finance ever developed. And banning PACs would surely make campaign finance less ethical than it is today.

Finally, the argument has been made that PACs are detrimental because they advance "special interests." Mr. Chairman, allow me to tell you a few things about my job. Fire fighting is the nation's most dangerous profession. Everyday fire fighters put their own lives on the line to protect the lives and property of our fellow Americans. Every time an alarm sounds, fire fighter's lives are at risk, and they could be killed in the line of duty. We know this. We accept this. We cannot accept taking away our right to fight for elected officials who will support us when the going gets tough.

We are a very special group of people, and we have legitimate, legislative interests. If that makes me a "special interest," Mr. Chairman, then so be it. I am glad there is a PAC out there that supports me and one I can support with my voluntary contributions.

I don't doubt that there are problems with the way campaigns in this country are financed. It seems to me that too much money is spent campaigning, and there may be a way to reduce the overall influence of money on the political process. But whatever problems exist, PACs are not one of them. As this committee considers this issue, I leave you with a plea on behalf of myself and my fellow fire fighters. Please don't take away our ability to participate in the political process. Please don't destroy my political action committee.

The CHAIRMAN. All of you expressed the desire and involvement in pooling your funds for some kind of a combined impact through your PAC. Can you give me instances, either because of your ability to contribute some time or your inclination to be involved in any kind of educational or informational activity surrounding your PAC, or have you only been able to limit your participation in terms of dollars and cents in the PAC?

Ms. DIETZ. Educating the public in terms of issues?

The CHAIRMAN. If you have a PAC, and you are part of that PAC, your testimony primarily focused on the contributions that are important to you through that PAC.

Have any of you been able to contribute time or been involved in any kind of educational or informational activity focused by your PAC or initiated by your PAC to assist in more than just putting dollars into the political system?

Ms. DIETZ. On a local level, during the last election, I organized the volunteers through my PAC to drop literature, to make phone calls. We developed a list of candidates to deliver at polls that supported educational issues. Is that what you mean?

The CHAIRMAN. Did you get people involved that hadn't been involved in the political process before?

Ms. DIETZ. Yes. Teachers, you mean? Yes.

The CHAIRMAN. Were they contributors to the PAC prior to being involved?

Ms. DIETZ. I can't answer that for sure. It is my sense that not all of them were because our contributions were lower the year before. We had a lot more participation—mostly because of the leadership, the people who were directing what was going on, and because we had the PAC drive. We also had a lot of other activities——

The CHAIRMAN. So it is your impression after the participation that there is a higher participation in political giving through the PAC than before?

Ms. DIETZ. I guess the PAC drive is one way we go to our members and say, you can contribute this way. Some of them choose not to. Some contribute time as a result of that request. Some say, I would rather not give money, but I would make phone calls. So yes, it does stimulate that kind of activity, and that is what we look for.

Mr. KINCAID. The fire fighters make a great deal of effort on a local and a national level to educate our members on political education. We hold legislative conferences in different arenas to bring new members in and educate them in the political process and the fire fighters' needs.

Mr. KAVANAUGH. In Wisconsin, I belong to the Wisconsin Restaurant Association, and in a lot of States, the National Restaurant Association is taking affiliations of the State associations to become one unit. Wisconsin is one of the last States to join as a member of both automatically. But in Wisconsin at all our monthly meetings, and we have 17 chapters around the State, we have political forums and we bring in candidates, whether national or local candidates, to bring up issues and we do mailings out of political questions that bring all the members, which in Wisconsin is 6,000 members to the State association, so that they are aware of all the political things that are happening. So they are becoming more politi-

cally active and that is what you want. You don't want just their money. You want their vote and their support.

Ms. BAYLIN. I think any political action Committee that puts out any literature automatically starts discussions amongst coworkers, friends, family, because there are issues that come out, interesting articles that come up, things that warrant discussion, and I think this tends to get people more involved and starts to spread involvement at a grass-roots level.

The CHAIRMAN. Mr. Fazio.

Mr. FAZIO. Mr. Chairman, if you would permit me, given the fact that we have a vote on, I have three questions. I will read them slowly. I would be interested in your responding to any of them that move you.

First of all, how do you feel about the process of selecting the candidates you contribute to? Do you feel you are involved? Do you feel you have input? What do you do to solicit the grass-roots of your PAC, in other words, to be involved in the process of actually deciding who you are going to support? How do you sell your, and let's stipulate to this, increasingly cynical colleagues about the value of participating when in fact with corporate downsizing and everything else that is happening in society, teachers being laid off, firemen being laid off, restaurants going belly up, people are increasingly reluctant to give, given the impression that they have little hope that it will mean anything?

And lastly, how do you feel about a law that would limit your giving simply to your Congressman, one Congressman, not your State delegation, not anyone beyond the boundaries of your State? How do you feel personally, given your current political participation, about a law that would restrict your reach to your own district or your State in terms of your political participation?

I would be happy to hear from any of you on one or more subjects.

Ms. BAYLIN. I am very concerned about the last question, restricting your contribution to an individual that was within your district or State. It is just the fact that we are so diverse as a country. Things that happen in California affect Maryland. Things that happen in the north of the country affect the south of the country. I don't think we can limit ourselves any longer to that narrow field. I think we have to realize that what happens in Congress, what happens in the United States affects all of us. I think we have to be national in scope.

Mr. FAZIO. Anyone else?

Mr. KAVANAUGH. One of the things, the process where we look at candidates, the candidates are interviewed by the PAC and we keep a real detailed voting record on how they vote on our issues, and at the PAC trustee Committee meetings each candidate is discussed on his voting record, and the candidates are, if there is a political contribution that is considered for them, people in their district certainly have the major input on whether they are going to receive funding or not. It is not just at a national level. The level of the local person is really important on whether they should be considered for funding. So I think that is important.

Ms. DIETZ. And on the issue of the process, in my county the political action interview team interviews all the candidates and then

makes a recommendation, and the positions of each of the candidates are printed and disseminated throughout the membership, and then there is an every member vote. It is a little different depending on which level of race it concerns. But every member is given the information on all the candidates, and often that is the only time that they get information on all the candidates in one publication.

Mr. FAZIO. You know your local candidates better, perhaps, but do you feel you have had some say in the selection of State and Federal candidates through people who represent you?

Ms. DIETZ. Well, I think it is natural for you to be more informed the closer it is to home, and I feel that that is true, but I have also been able to enter into the debate on State candidates, and we send a representative to the Committee that endorses or makes a recommendation on the congressional race as well. Then that comes back to the county for endorsement or not. So that it is in the districts across different counties.

Mr. FAZIO. So it is a shared responsibility?

Ms. DIETZ. Yes. On the issue of how do you get people to buy into that process, ask them. I find a lot of hope out there. I don't think that people are hopeless and depressed about the system. I ask them, would you like to donate to the PAC, and most say yes. Depending on how much homework we have done and gotten a lot of information out on how the political process is affecting them, they are willing to donate. It is not difficult to get people to buy in. You just have to tell them how and ask them.

Mr. KINCAID. I think the fire fighters, we have seen over time that collectively we are much stronger and our voice is much louder and we can get our issues heard. Our members see that very clearly now.

We have a process also where we screen all our candidates locally on the different levels, and everybody has an opportunity to participate in that, everybody that would like to. They are all screened on fire fighter issues. We steer clear of issues that are not fire fighter issues. It is kept to be a very open process for us.

As far as supporting candidates outside of our own district, fire fighter issues are nationwide, and our issues, as long as our issues are nationwide and as long as our issues affect fire fighters all over, we would always want the opportunity to assist anywhere where we can have somebody assist fire fighter issues.

Mr. FAZIO. Thank you, Mr. Chairman.

The CHAIRMAN. A follow-on, have you ever been involved in an attempt to determine which candidate should receive a contribution from your political action Committee? Have you ever been involved in the process and the candidate that you wanted to receive the money didn't? What was your reaction to that?

Ms. DIETZ. I was disappointed. But it happens. People are elected that I don't choose. I lose elections. I don't always get my way, but I feel if I have been able to come to the table and say my piece and had an opportunity to be included in the process, I am comfortable with that decision if I feel that it is broad based and based on the wishes of the association.

The CHAIRMAN. So you are comfortable if the decision is from the grass-roots up in a kind of triangular structure.

What would your reaction be if you thought it was a decision from the top notwithstanding the structure of the PAC; that is, if a lot of people wanted them but the leadership didn't, and it was always a decision of people at the top? Would you tend to participate in that kind of a structure? In other words, we want your money but not your opinion.

Ms. DIETZ. That is not my experience. I probably wouldn't participate in that, but that is not my experience.

The CHAIRMAN. My assumption then is, that since you are all involved in participating, giving money and your time, that you believe that what you are involved in is a useful process.

Ms. DIETZ. Definitely.

The CHAIRMAN. I want to thank you on behalf of the Committee for giving up time out of your busy days to help us trying to shape perhaps new rules and regulations for candidates running for office. Thank you very much. The Committee stands adjourned.

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The Man Who Ruined Politics

So Colin Powell is not running for President. Neither is Jack Kemp, Bill Bradley, Dick Cheney, Sam Nunn or William Bennett. Voters are left with the likely choice between two rather tired war horses, Bill Clinton and Bob Dole. No other Democrat is challenging an obviously vulnerable incumbent, and Republican contenders such as Phil Gramm, Pat Buchanan and Lamar Alexander hover in single digits. In this second rank we now also have millionaire publisher Steve Forbes, who started from nowhere to grab the first rung on the ladder. And of course, billionaire Ross Perot still haunts the scene.

If you don't like the remaining field, blame the man pictured here, Fred Wertheimer and Common Cause, the organization he until recently ran and still animates, are the principal architects of the cockamamie financial gauntlet we inflict on our potential leaders. Common Cause is point-lobby for the goo-goos, that is, the earnest folks always trying to jigger the rules to ensure good government. One of their concerns is that money is the root of all political evil, so they seek salvation in the Sisyphean task of eliminating its influence. The chief result of this is a rule outlawing individual political contributions of more than $1,000, and a bureaucracy called the Federal Election Commission to count angels on pinheads in deciding, for example, what counts as a contribution.

Fred Wertheimer

A serious Presidential campaign is likely to cost $20 million. This means a potential President has to start by persuading 20,000 different people to pony up a grand. Take an arbitrary but probably generous hit rate of 5%, and he (or she) has to pass the tin cup 400,000 times. Admittedly these numbers oversimplify, but they give you the idea. Mr. Wertheimer's brainstorm means fund-raising is so consuming that candidates have no time for anything else. Even more important, it is a process virtually designed to drain a potential President of any residue of self-respect.

This may not be the only thing General Powell means when he says running requires a fire he does not yet feel, but it is certainly a big one. His adviser Richard Armitage explicitly said, "Colin Powell going out and asking people for money and then spending all that money wasn't attractive." Mr. Kemp was similarly explicit in not wanting to undertake the fund-raising exercise, and it no doubt inhibited Mr. Cheney as well. On the Democratic side, finding 20,000 donors to challenge an incumbent is an even more daunting challenge; Senator Bradley and Senator Nunn decided to quit rather than fight.

It is no accident that the dropouts are precisely the types the goo-goo crowd would like to keep in politics, which is to say, those motivated by principle instead of sheer ambition. In 1988, to take an earlier example, the exploratory field included Don Rumsfeld, who had been a Congressman, White House Chief of Staff, Defense Secretary and a spectacularly successful corporate chief executive. But he threw in the towel rather than run up possibly unpayable debts—"as a matter of principle, I will not run on a deficit."

The doleful effect of such limitations were entirely predictable, indeed, they were predicted right here. As early as 1976, when the Supreme Court partly upheld the 1974 Federal Election Campaign Act, we wrote that the law "will probably act like the Frankenstein's monster it truly is. It will be awfully hard to kill, and the more you wound it, the more havoc it will create." In the face of hard experience, of course, the goo-goos prescribe more of the same, to the point where "campaign finance reform" has become the Holy Grail.

To be fair, the Wertheimer coven hasn't had its way entirely. The logic of the goo-goo impulse is public financing of political campaigns, an idea mostly hooted down by the same taxpayers who eagerly embrace term limits—though in Presidential campaigns public finance serves as the carrot getting candidates to accept the FEC nit-picking. And the Supreme Court, while backing away from the obvious conclusion that limiting political expenditures is *prima facie* an infringement of free speech, couldn't bring itself to say someone can't spend his own money on his own campaign.

Thus the millionaire's loophole. Mr. Perot was able to use his billions to confuse the last Presidential elections, going in, out and back in at will. So long as he doesn't accept public money, he can spend as he likes.

Mr. Forbes is an even more interesting case, since he was chairman of Empower America, the political front of both Mr. Kemp and Mr. Bennett. Who would have guessed a year ago, the latter asks, that the Empower America candidate would be Steve Forbes. On the issues Mr. Forbes is perhaps an even better candidate than his colleagues—backing term limits where Mr. Kemp opposes them, for example—and without his message his money wouldn't do much good. Still, to have a better chance at ultimately winning, it would have been logical for him to bankroll one of his better-known colleagues. But that's against the law, thanks to Mr. Wertheimer, so Mr. Forbes has to hit the stump himself.

With widespread disaffection with the current field, and especially in the wake of the Powell withdrawal, the lunacy of the current rules is coming to be recognized. The emperor has no clothes, think tank scholars are starting to say—notably Bradley A. Smith of the Cato Institute, whose views were published here Oct. 6. Following Mr. Smith, Newt Gingrich said last weekend we don't spend too much on political campaigns but too little. This heresy was applauded this week by columnist David Broder, which may herald a breakthrough in goo-goo sentiment itself.

Formidable special interests, of course, remain opposed to change in the current rules. Notably political incumbents, who want campaigns kept as quiet as possible and have learned to milk other special interests who want access. So rather than having some maverick millionaire funding his pet candidate on reasons that might relate to ideas and issues, we have all parties funded by Dwayne Andreas and his sisters and his cousins and his aunts, better to protect ethanol subsidies. Finally, of course, we have Mr. Perot and his United We Stand hell-bent for further restrictions on campaign finance, better to protect the political process for billionaires like himself.

Not so, thankfully, Mr. Forbes, who sees campaign spending limits as an incumbent protection device. He recently told an Iowa audience, "If Congress abolished the franking privilege, then I'd be impressed." Lift the caps on giving and spending, but make sure everything is disclosed, he says. "That's real reform."

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